



# भारत का राजपत्र

## The Gazette of India

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संलग्न ही जाती है जिससे कि यह अधिक संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed  
as a separate compilation.

### नोटिस

#### NOTICE

नीचे लिखे भारत के अतिथारण राजपत्र 3 जून, 1968 तक प्रकाशित किये गये हैं:—

The undermentioned Gazettes of India Extraordinary were published up to the 3rd June, 1968:—

Issue No.	No. and Date	Issued by	Subject
185	S.O. 1859, dated 24th May, 1968.	Ministry of Labour, Employment and Rehabilitation.	Referring an industrial dispute between the employers in relation to the Commissioner for the port of Calcutta and their workmen for adjudication to the Industrial Tribunal, Dhanbad.
	S.O. 1860, dated 27th May, 1968.	Do.	Prohibiting the continuance of a strike as referred above in S.O. 1859.
186	S.O. 1861, dated 27th May, 1968.	Ministry of Commerce.	Amendment to the notification No. S.O. 2384, dated 17th July, 1967.
187	S.O. 1862, dated 28th May, 1968.	Do.	Appointment of a panel of experts for hearing appeals against the decision of the Export Inspection Agency for export of vacuum flasks.
188	S.O. 1945, dated 28th May, 1968.	Ministry of Law.	Bye-election to the House of the People 10-Krishnagar Parliamentary Constituency.

Issue No.	No. and Date	Issued by	Subject
189	S.O. 1946, dated 29th May, 1968.	Ministry of Commerce.	Amendment in the notification No. S.O. 3918, dated 16th December, 1965.
190	S.O. 1947, dated 29th May, 1968.	Do.	Non-transferable specific delivery contracts for the sale or purchase of linseed oil, mustard seed oil and rapeseed oil.
	S.O. 1948, dated 29th May, 1968.	Do.	Declaration that no person shall, save with the permission of the government enter into any non-transferable specific delivery contract for the sale or purchase of linseed oil, mustardseed oil or rapeseed oil in any place in India.
191	S.O. 1949, dated 30th May, 1968.	Ministry of Information and Broadcasting.	Approval of the films as specified therein.
	S.O. 1950, dated 30th May, 1968.	Do.	Approval of the film as specified therein.
192	S.O. 1951, dated 31st May, 1968.	Do.	Amendments to the notification No. S.O. 3918, dated 16th December, 1965.
193	S.O. 1952, dated 31st May, 1968.	Ministry of Railways.	Appointment of Shri Mohiuddin Ahmed I.A.S. as a Claims Commissioner to deal with all the claims of the accident involving No. 2 AGA Down Passenger and No. 406 Down Goods Trains on 30th March, 1968 at Bbarwari station on the Fatehpur Allahabad section of Northern Railway.
एस० औ० 1953, दिनांक रेल मंत्रालय 31 मई, 1968		उत्तर रेलवे के फरोहर-इयाहा-बाद खण्ड के भरवारी स्टेशन पर 30 मार्च 1968 को नं० 2 ए जी ए डाउन सवारी गाड़ी नं० 406 डाउन माल गाड़ी के दुर्घटनाप्रस्त हो जाने के फलस्वरूप उत्पन्न होने वाले दावों के निपटारे के लिये, दावा कमिशनर के रूप में श्री मोहिउद्दीन, आई०ए०एस०, की नियुक्ति।	
194	S.O. 1954, dated 3rd June, 1968.	Ministry of Information and Broadcasting.	Approval of the films as specified therein.

Issue No.	No. and Date	Issued by	Subject
195	S.O. 1955, dated 3rd June, 1968.	Ministry of Industrial Development and Co-operation.	Fixing the selling price for the type of tractors mentioned in the schedule therein.

ऊपर लिखे असाधारण राजपत्रों की प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मांगपत्र भेजने पर भेज दी जाएंगी। मांगपत्र प्रबन्धक के पास इन राजपत्रों के आरी होने की तारीख से 10 दिन के भीतर पहुँच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

### भाग II—खण्ड 3—उपखण्ड (ii)

#### PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालयको छोडकर) भारत सरकार के मंत्रालयों और (संघ भेन्न प्रशासन को छोडकर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विविध आवेदन और प्रधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

### ELECTION COMMISSION OF INDIA

New Delhi, the 30th April, 1968.

S.O. 2072.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 16th April, 1968, by the High Court of Madhya Pradesh, Jabalpur, in election petition No. 10 of 1967.

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

#### ELECTION PETITION NO. 10 OF 1967.

Shrifati Sahodrabai Rai, aged about 48 years, widow of Shri Murlidhar Rai, Agriculturist, resident of village Karrapur, Tahsil and District Sagar.

*Petitioner.*

#### Versus

1. Ram Singh Aharwar, aged about 27 years, son of Ganpatlal Aharwar, resident of Purbiyau Tori, Sagar, Tehsil and District Sagar.
2. Churaman, aged about 50 years, son of Ramle, resident of Silar, P. O. Deori, Tehsil Rehli, District Sagar.
3. Sunderlal, aged about 30 years, son of Bakkal, resident of Mohal No. 14, Sadar Bazar, Sagar.

#### PRESENT:

The Hon'ble Justice S. P. Bhargava.

Shri V. D. Bhargava, Advocate, for the petitioner.

Shri L. S. Baghel, Advocate, for the first respondent.

Respondents 2 & 3 absent, *ex parte*.

#### ORDER

The petitioner Shrimati Sahodrabai Rai has filed this petition under section 80 of the Representation of the People Act, 1951 (hereinafter cal'd the Act) for

setting aside the election of the first respondent Shri Ramsingh who was elected from Sagar Lok Sabha Scheduled Caste Constituency No. 24, a member of the Lok Sabha in the election held on 20th February, 1967. Four candidates in all, including the petitioner, contested the election. The petitioner has impleaded all the rival candidates as respondents in her petition and has claimed the relief that after declaring the election of the first respondent as void she may be declared to have been duly elected to the seat.

2. The election of the first respondent is challenged on several grounds including the ground that he resorted to various corrupt practices described in section 123 of the Act. The election has also been challenged on the ground that the result of the election has been materially affected by the improper refusal and rejection of votes which should have been counted as valid votes of the petitioner. The election is also challenged on the ground of non-compliance of certain provisions of the Act and Rules made thereunder.

3. Some of the grounds which had been urged in the election petition for invalidating the election have not been pressed at the argument stage. In view of this fact I consider it unnecessary to set out here the averments relating to the issues not pressed. The course which appears to be convenient to me is that while discussing the issues which are required to be considered, the relevant facts averred in the petition and the written statement relating to them should be stated whenever necessary. I shall adapt this course.

4. Issue No. 1.—Whether the petition suffers from the defect of the non-joinder of parties due to the omission of the persons whose names have been specified in paragraph B of the written statement, resulting in non-compliance of section 82(b) of the R. P. Act, 1951?

This issue has not been pressed on behalf of the first respondent in view of the decision of the Allahabad High Court reported in *Nardev v. Joti Saroop and others* (AIR 1964 ALL 83) where it has been held that—

"An election petition challenging the validity of the duly elected candidate on grounds of the commission of corrupt practices by the elected candidate and with his consent, by a candidate of another constituency is not defective for non-joinder of the candidate from another constituency against whom corrupt practices are alleged, as he is not a necessary party to the election petition. The expression any other candidate in S. 82(b) means 'any other candidate' from the particular constituency, the election of which is questioned and not 'any other candidate' from any constituency."

It is, therefore, held that the petition does not suffer from the defect of non-joinder of parties due to the omission of the persons whose names have been specified in paragraph B of the written statement from being impleaded as parties to this petition.

5. Issue No. 2.—Whether the corrupt practices alleged in para 4(ii) and (iii) of the petition are vague and lack in material particulars. If so, what is the effect of the omission?

This is a general issue and the parties agree that the effect of proper particulars being not given may be considered, if necessary, while discussing the specific issues bearing on the point. I, therefore, hold that it is not necessary to decide this issue separately.

6. Issue No. 3.—Whether the first respondent is Chamar by caste or Aharwar by caste?

(b) If the first respondent is proved to be Aharwar or Ahirwar by caste, whether he was eligible to contest for the Sagar Lok Sabha Constituency?

The learned counsel for the petitioner did not press this issue and conceded on the basis of the oral and documentary evidence on record that the first respondent is Chamar by caste. On this issue, therefore, this finding is recorded that the first respondent Shri Ramsingh is a Chamar by caste and he was eligible to contest for the Sagar Lok Sabha Secheduel Caste Constituency. The issue is decided in favour of the first respondent.

7. Issue No. 4(a).—Whether the pamphlet which has been marked annexure A to the petition and where caption is 'Savdhan-Dhoka-Savdhan' was got printed by the Jan Sangh Party, Bhopal, or as alleged by the first respondent was published by Sarvadaliya Goraksha Mahabhiyan Samiti, Deori-Kalan?

(b) Whether the first respondent or his agent or workers circulated the said pamphlet as mentioned in para 4(II)(C) of the petition between the period 9th February, 1967 to 20th February, 1967?

*Issue No. 5(a).*—Whether in the pamphlet annexure A referred to above, an appeal has been made to the voters to vote on the basis of religion?

(b) Whether the publication of the said pamphlet in the circumstances stated in the petition constitutes a corrupt practice under section 123(3) and 123(4) of the R. P. Act, 1951?

*Issue No. 7.*—Whether the interpretations put on the said pamphlet annexure A of the petition in paragraphs 4(II)(D) to (M) are correct?

All these issues relate to the printing, publication and distribution of the pamphlet, which is marked as Ex.P-1. It would be convenient to take them together for discussion. The caption of the pamphlet Ex.P-1 is that सावधान धोखा सावधान। This pamphlet, on the face of it, purports to have been printed in the Mohan Printing Press at Bhopal. Its another heading is आपकी धार्मिक भावनाओं पर बज़ारात (an astounding blow on your religious feelings). The contents of this paper contain four statements; (i) that in the Congress rule of 19 years, 24 crores of cows, bullocks, calves and sacred bullocks have been killed; (ii) that even now on the sacred land of Bharat, 30000 progeny of cow are being daily slaughtered; (iii) that in Madhya Pradesh thousands of bullocks are being killed daily; and (iv) that the Congress was desirous of continuing the slaughter of the cow progeny. The fifth statement in the said pamphlet is that in getting the slaughter of the progeny of cow banned, full cooperation should be given with body, heart and money and the hand-hill ends with the note to the effect that every vote should go to him who loves Indian Culture, who is virtuous and who is a 'Gobhakta'.

8. It is averred in para 4(II)(A) of the petition that the basis of the corrupt practice committed is that the said pamphlet was published and circulated throughout the constituency by the returned candidate Shri Ramsingh Ahawar, his agents and workers with his consent. In para 4(II)(B) of the petition, it is stated that the pamphlet was published in the name of the 'Sarvadaliya Goraksha Mahabhiyan Samiti, Branch Deori-Kalan.' In paragraph 4(II)(C) of the petition it is alleged that it was published at the instance of the Bhartiya Jansangh Party, Bhopal, and that about 8000 such pamphlets were printed on the order of the Jan Sangh Party Office, Bhopal. It is further averred that the copies of the said pamphlet were distributed by the first respondent his agents and his workers with his consent and with the consent of his party, that is, Jan Sangh, for the furtherance of his election prospects. The details of distribution and the names of the distributors along with the particulars of places and dates have been mentioned in the said paragraph 4(II)(C) of the petition and it is alleged that the distributors of the said pamphlet, as mentioned therein, also appealed to the voters to vote for the Jan Sangh candidate respondent No. 1. It is also urged that it was propagated that if the voters were interested in preventing cow slaughter and its progeny and wanted to save the Hindu religion and culture, they should vote for Jan Sangh.

9. In paragraphs 4(II)(D) to (M), the petitioner has drawn certain inferences from the distribution of the said pamphlet. It is alleged in para 4(II)(D) that the propaganda was carried on the party basis and the name of the Congress was mentioned to indicate the petitioner and that the publisher appealed to the voters of a threat of serious danger to their religious concept. In paragraph 4(II)(E), it was urged that in the relevant area of Madhya Pradesh, the population mostly consists of the Hindu religious voters who worship the cow as goddess and treat her slaughter to be a sin; that the Jansangh candidate was depicted in the pamphlet as a person who was the follower of the Hindu religion and the representative of Indian Culture and a devotee of cow and the Congress was described as a butcher of cow and its progeny. In paragraph 4(II)(F) it was alleged that there was an innuendo in the pamphlet that the Congress candidate was interested in slaughtering cow and its progeny and was thus acting contrary to the commands of the Hindu religion. It was also alleged that the "appeal was made on the ground of Hindu religion of which respondent No. 1 was said to be a representative and the appeal was made on the ground of Hindu religion of respondent No. 1,

the Jansangh candidate, and the voters were requested to vote on the ground of religion to respondent No. 1 and in the same breath, the voters were requested to refrain from voting on the ground of petitioner's religion by permitting cow slaughter." In paragraph 4(II)(G), it was urged that there was also an appeal to religious symbol of cow in the furtherance of the prospects of election of respondent No. 1 and also for prejudicially affecting the election of the petitioner. In paragraph 4(II)(H) it was alleged that certain statements of facts made in the same pamphlet were false and which the publisher, the respondent No. 1, his agents and workers above-named, believed to be false and did not believe to be true in relation to the personal character, conduct and candidature of the petitioner, which was reasonably calculated to prejudice the prospects of the petitioner's election. It was further said that the word 'Congress' as used in the said pamphlet stood for the petitioner, who was the Congress candidate. It was further stated in this paragraph that the statements contained in the pamphlet were all false. In paragraph 4(II)(I), it was urged that the picture in the pamphlet which depicted a pair of Bullocks being slaughtered by sword, was an attempt to create a prejudicial impression upon the voters about the symbol of the "two bullocks with yoke on". It was urged that the symbol of the petitioner was closely connected with her candidature and any attempt to distort the symbol, indicate that the symbol of the petitioner and the Congress was nothing but the picture of cow slaughter is a specimen of false propaganda. It constituted a corrupt practice under section 123(4) of the Act. In para 4(II)(J) it was said that the publication of the said pamphlet constitutes the corrupt practice of undue influence inasmuch as it induced or attempted to induce electors to believe that they will become object of divine displeasure by voting for the Congress as it amounts to vote for a person who is supporter of cow slaughter. In para 4(II)(K) it was alleged that the said pamphlet had an effect on literate as well as on illiterate voters in the constituency and it touched their religious sentiments and they were made to believe that the petitioner and the Congress Organisation were interested in cow slaughter. It was also said that if that pamphlet was not published, the voters would not have voted against the Congress candidate and in favour of respondent No. 1 and thus the corrupt practice had materially affected the result of the election so far as the election of the first respondent was concerned. In paragraph 4(II)(L) it was alleged that the pamphlet was widely circulated a few days before the election and it was repeated that the name of the Sarvadallya Goraksha Mahabhiyan Samiti had been falsely used because the said Samiti was an All India Organisation and its Secretary had written a letter of congratulation to the Chief Minister of Madhya Pradesh expressing his pleasure on the declaration by the M.P. Government the prohibition of slaughtering old bullocks and bulls in the State. It was urged that the pamphlet was actually published by the Jansangh in the name of Sarvadalya Goraksha Mahabhiyan Samiti. Lastly, in para 4(II)(M) it was urged that the statement contained in the pamphlet also constitutes the corrupt practice of undue influence under section 123(2) and corrupt practices under section 123(3) of the Act on the ground of religion and religious symbol.

10. The respondent No. 1 has denied all the aforesaid allegations in his written statement, it is clear that the allegations made in the petition, would require consideration of the questions which are covered by issues Nos. 4, 5 and 7. The first question is whether the pamphlet Ex. p-1 was printed by the Jansangh Party and not by the Sarvadaliya Goraksha Mahabhiyan Samiti. On this point issue No. 4(a) is framed. The second question for consideration is as to whether the said pamphlet was circulated and distributed by the first respondent, his agents or his workers with his consent. On this point, issue No. 4(b) has been framed. The last question for consideration, which is covered by issues No. 5 and 7, is as to whether in publishing the said pamphlet, the corrupt practices falling within the mischief of section 123(2), S. 123(3) and S. 123(4) of the Act were committed. I shall discuss these points in the order stated.

11. Issue No. 4(a).—This issue relates to the question of the pamphlet Ex. P/1 having been printed and published at the instance of the Bharatiya Jansangh. For proving this issue the petitioner has examined two witnesses. Dwarkaprasad Katare (P.W. 16) and Sunderlal Tiwari (P.W. 21). The evidence of Dwarkaprasad Katare is merely of a corroborative nature. His evidence fully shows that he has no direct knowledge of the person or party who got the said pamphlet printed at the Mohan Printing Press, but he has deposed that he had gone to Bhopal on 10-2-1967 and met Sunderlal Tiwari (P.W. 21), who is the proprietor of the Mohan Printing Press. He has said that Sunderlal Tiwari told him that he had received a letter from the Jansangh Office to the effect that Rs. 80/- were being sent to the Mohan Printing Press for getting 8,000 pamphlets printed. He further said that Sunderlal Tiwari had told him that the letter contained the signature of Ratansingh Banthia, who was the Vice-President of the Jansangh party at Bhopal. He claimed to have seen that letter himself, which was dated 7th

February, 1967. In his cross-examination he said that there was no institution of the name of 'Sarvadaliya Goraksha Mahabhiyan Samiti' at Deori. He admitted the fact that Dr. Govind Das of Jabalpur was a member of the Sarvadaliya Goraksha Mahabhiyan Samiti, and that the said Samiti had made some propaganda at Delhi before the election for the protection of cow. Dwarkaprasad Katare himself contested the election for the Deori constituency as a Congress nominee. He lost that to Parasram Sahu (R.W.6) and thereafter filed an Election Petition against him. He was asked that when before the filing of the petition he had come to know that the pamphlet Ex.P/1 was got printed by the Jansangh party at Bhopal and he had actually read the letter of Ratansingh Bantia why did he not mention this fact in his petition. He, however, returned the answer that he had stated the facts to his lawyer who said that those facts will be proved at proper stage and it was not necessary to mention them in the petition. The answer returned by him is the stock answer of trying to throw blame on the counsel, when the party concerned is not able to find any other suitable justification.

12. The more important statement is that of Sunderlal Tiwari (P.W. 21). He had said that he knew Ratansingh Bantia for the last 10 or 12 years and that the letter Ex. P/25 was sent to him by him. He has also deposed that Ex. P/25-A was a part of the said letter. In Ex. P/25, the witness had been asked to print 8,000 pamphlets by the following day and to receive the payment of Rs. 80/- In Ex. P/25-A the direction contained is that in the pamphlet to be printed in place of Bhopal Branch' the words 'Deori-Kalan Branch' had to be written. He said that the said letter and the sum of Rs. 80/- had been delivered to him by Tribhuvandas Mehta, who is a son of Udhavdas Mehta and the brother of Omprakash, who is mentioned in Ex. P/25. He made it plain that Tribhuvandas Mehta had told him that the amount of Rs. 80/- had been given to him by someone coming from Deori. He has also said that from Deori two persons had come, whom he did not know. But he identified Brijlal Chourasia (R.W. 7) as one of those two persons. In cross-examination he admitted that he had not given the information about printing of the said pamphlet to the District Election Officer. He then tried to change this answer, but ultimately was unable to return any positive answer as to whether information about the printing of the said pamphlet was sent by him or not. He admitted that there was a branch of Sarvadaliya Goraksha Mahabhiyan Samiti at Bhopal and Ratansingh Bantia was the Secretary of that Samiti at Bhopal. He has also said that Ratansingh Bantia had got the pamphlets printed as being the Secretary of the Sarvadaliya Goraksha Mahabhiyan Samiti. He admitted that he had issued the duplicate bill dated 25th December, 1966 (Ex. R/5) for Rs. 80/- and admitted its genuineness. The said duplicate bill was issued for the printing of the similar pamphlets. He also said that in the bill Ex. R/5, originally the name of Gulabchand Khandelwal Deori was written and then the word 'Deori' had been struck off and the word 'Bhopal' was written in its place. He said that he was unable to make a categorical statement about Ratansingh Bantia being the Vice-President or member of the Jansangh party at Bhopal, though he added that he guessed him to be so. It is plain that his conjecture about Ratansingh Bantia being the Vice-President or the member of the Jansangh party at Bhopal, is not legal evidence. Even without there being any evidence in rebuttal the evidence of these two witnesses is wholly insufficient for concluding that the first respondent or his party, namely, the Jansangh party, got the pamphlet Ex. P/1 printed at Bhopal. However, in rebuttal the first respondent has examined Ratansingh Bantia as R. W. 5 and Brijlal Chourasia as R. W. 7. Ratansingh Bantia categorically stated that he was never the Vice-President of Bhopal Jan Sangh party and he was not even a member of Jansangh. He has also deposed that he got the pamphlets similar to Ex. P/1 printed in the last week of December 1956 for Sarvadaliya Goraksha Mahabhiyan Samiti, branch Deori. This assertion of his is corroborated by Ex. R/5 dated 25th December, 1966. Brijlal Chourasia (R. W. 7) is the direct witness on the point that the pamphlets Ex. P/1 were got printed for the Deori-Kalan branch of the said Samiti. He has also deposed that the pamphlets Ex. P/1 were got printed by him and that he had taken the letter Ex. P/25-A for getting himself introduced to the owner of the press, Sunderlal Tiwari. The statements of Ratansingh Bantia (R.W. 5) and Brijlal Chourasia (R.W. 7) impress me as the statements of credible witnesses and I place reliance on them.

13. However, the learned counsel for the petitioner, attacked the said evidence by urging that as Brijlal Chourasia did not remember the contents of Ex. P/1, it should be inferred that he did not get them printed. In the second place, it was suggested that ordinarily no body would be interested in the month of December 1966 in getting such pamphlets printed, in which there will be an appeal made to the voters to vote for candidates having particular virtues or qualifications,

as the nomination papers even were not filed till then. In the third place, it was stressed that Exs. P/25 and P/25-A form only one letter and in Ex. P/25 dated 7th February, 1967, it was written to the Press to print 8,000 pamphlets and to deliver them on the next day, and, therefore, the version of Ratansingh Bantia and Brijlal Chourasia that the said pamphlets were printed in the month of December 1966 and distributed thereafter could not be correct. It was also urged that Tribhuvandas Mehta, who had paid the money to Mohan Printing Press, was a member of Jansangh party and, therefore, it should be held that the money was paid by the Jansangh party. It was also contended that as the delivery of the printed pamphlets was made in the Jansangh office, they should have been held to have been printed at the instance of the Jansangh office Bhopal. In my opinion the contentions raised do not merit any acceptance. All the contentions raised are merely of an inconclusive character and they are in no sense sufficient to wash out the intrinsic evidence which the pamphlets contain about the party who got them printed and in my opinion they cannot be accepted in preference to the positive and categorical statements of Ratansingh Bantia and Brijlal Chourasia. Merely because Brijlal Chourasia was not able to state the contents of the pamphlets at this distant point of time, it cannot be inferred that he did not get them printed, in spite of his positive testimony to that effect. It is true that the nomination papers of candidates were accepted in the month of January, 1967, but it was generally known even in the month of December 1966 that the elections were shortly going to take place. Further, the agitation about cow-slaughter being banned took place at Delhi in the month of November 1966 on the big scale. Even if the Sarvadalliya Goraksha Mahabhiyan Samiti was not a political party, it could propagate in the month of December 1966 that vote should go only to those persons who were virtuous and 'Go-bhakta'. Merely because in Ex. P/1 there is a note printed for the electors, I am unable to hold that they could not be printed in the month of December 1966.

14. The third contention is based on the language used in Ex.P/25. It is true that the date of the letter Ex. P/25 is 7th February, 1967 and it has been clearly stated therein that the Press should print the matter by the following day. However, the explanation given by Ratansingh Bantia is that he did not remember whether he had written to the Press people in his letter that they should print the pamphlets and then to deliver or he was asked for the delivery being effected of the pamphlets which were already printed. He said that he could write them any one of the two things. In view of this answer, in my opinion, the mere use of the words 'that pamphlets may be given after printing' ( छाप कर दे दे ) does not conclusively mean that Ratansingh Bantia was aware of the fact that they were not printed till that time. Further, even if full weight is given to the language used in Ex. P/25 and it is held that the printed matter was not really ready till the time the letter was written and was to be printed only subsequently, in my opinion, the case of the petitioner is not improved. Whether the printing was done in the month of December 1966 or in the month of February 1967, the important point is as to who got those pamphlets printed. The answer to this important question on the evidence on record can only be that the pamphlets were got printed by the Sarvadalliya Goraksha Mahabhiyan Samiti.

15. The next contention is that as Tribhuvandas Mehta paid the amount of Rs. 80/-, it should be held that the Jansangh party got the pamphlets printed. In my opinion such a conclusion is not warranted at all, particularly in view of the fact that Sunderlal Tiwari himself has clearly admitted that when Tribhuvandas Mehta paid this amount to him, he had told him that the money had come from Deori. There is no evidence to show that the said amount came from the Jansangh party of Deori or from any member of Jansangh party.

16. The contention that the pamphlets were sent to the Jansangh office for delivery to the Deori people, has also to be rejected in view of the fact that Brijlal Chourasia (R.W.7) stated clearly that when he went to Bhopal he had not stayed at the Jansangh office. Sunderlal Tiwari has stated in his deposition that the pamphlets were sent through the three small children for effecting their delivery, but none of those children was examined.

17. I would, therefore, decide issue No. 4(a) against the petitioner and hold that the pamphlet Ex. P/1 was got printed by the Sarvadalliya Goraksha Mahabhiyan Samiti Deori-kalan.

18. Issue No. 4(b).—In paragraph 4(II)(C) of the petition the petitioner has mentioned the names of several persons who are alleged to have distributed the said pamphlets. She has also mentioned therein the names of the places and the

dates on which the distribution of the pamphlets took place. The evidence which has been adduced on behalf of the petitioner restricts the case of distribution to the following places, namely (1) Sagar, (2) Deori, (3) Sanodha, (4) Villages Maharajpur and Rasena, and (5) Villages Bharrai and Titurpani. For want of evidence with regard to other places it will not be necessary to refer to the alleged distribution at the other places.

19. *Distribution of pamphlets at Sagar.*—In the petition the petitioner alleged that the first respondent distributed pamphlets at Purblyau Tori, Sagar, on 17th February 1967. She further alleged that Shivrajsingh (R.W. 8) distributed the pamphlets at Katra Bazar, Sagar, on the same date (17th February 1967) she also alleged in the petition that Balaprasad Saraf distributed the pamphlets on 16th February 1967 and 18th February 1967 at Chameli Chowk, Sagar, and Amarsingh Khatlik distributed the pamphlets at Sagar on 17th February 1967. The mohalla or locality in which he distributed the said pamphlets is not stated in the petition.

20. The petitioner in her deposition admitted that she had not seen the distribution of the pamphlet Ex. P-1 with her own eyes but was informed about the distribution of them at Sagar by Gourishankar Pathak (P.W. 15) and Swami Krishnanand (not examined).

21. Gourishankar Pathak (P.W.15) stated in paragraph 1 of his deposition that about three days before the election he had witnessed the distribution of the pamphlets in Purblyau mohalla, Sagar, by Ramsingh respondent (R.W. 1), Shivrajsingh Advocate (R.W. 8) and Amersingh and Harishchandra Gupta. He further stated that on that day he had gone to Kakaganj and while returning from there via Purblyau Tori, he had seen them distributing the pamphlets. In cross-examination he stated that when he was returning via Purbiyau Tori, he was accompanied by Ratanchand Choudhary and Prakash Chand Jain and Bhawan Bhushan Deodia. He also stated that one such pamphlet was given to him by Biharilal Chaurasia who was a Mandaleshwar of Congress and who had fought municipal election on behalf of the Congress. He also stated that he had mentioned about the fact of the distribution of pamphlets to the petitioner herself but did not inform her the names of those persons who were distributing them. He also stated that the pamphlet which he had received from Biharilal Chaurasia was handed over by him to Gangas Singh (P.W. 4) who was the agent of Sahodratal. It is significant to note that none of the persons who were accompanying him at the time when he claims to have witnessed the distribution of pamphlets nor Biharilal Chaurasia have been examined in the case. Bhawan Bhushan Deodia was cited as a witness and had also attended the Court but he was given up without being examined.

22. It is also worthy of note that in the petition the allegation about the distribution by the respondent Ramsingh, Shivrajsingh and Balaprasad Saraf is for different localities of the city of Sagar but according to the testimony of Gourishankar Pathak (P.W. 15), Ramsingh and Shivrajsingh were seen by him distributing the pamphlets together. Amarsingh has not been mentioned in the petition to have distributed the pamphlets jointly with Shivrajsingh Advocate or the respondent Ramsingh but according to Gourishankar Pathak he was also one of those persons who were distributing the pamphlets with Ramsingh and Shivrajsingh. As regards Harish Chandra Gutpa, Shivrajsingh (R.W. 8) has positively stated that there is no Jan Sangh worker at Sagar of that name and the Jan Sangh worker who bears the name of Harish Chandra is a Jain. It is also pertinent to note that Gangas Singh (P.W. 4) has stated that pamphlets similar to Ex. P-1 were being distributed at Sagar 5 or 6 days before the election and he had been Ramsingh distributing the pamphlets at Purblyau Tori Sagar, Gangas Singh further stated that Ramsingh was accompanied by 3 or 4 other persons but he did not know whether those persons belonged to Sagar or were outsiders. Gangas Singh has further admitted that he did not tell the petitioner about the distribution of the pamphlets. It is unbelievable that if Gangas Singh had himself seen the distribution of pamphlets he would refrain from telling this fact to the petitioner. It is also worthy of note that both the witnesses stated that they did not directly receive these pamphlets. No evidence has been adduced to prove distribution of the pamphlets in Chameli Chowk and Katra Bazar localities of Sagar by Balaprasad Saraf and Shivrajsingh, and with regard to the distribution by Amarsingh the only evidence given in the case is that of Gourishankar Pathak. Gangas Singh and Gourishankar Pathak are both active workers of the Congress. If the pamphlets were distributed in a busy town like Sagar, there could be no dearth of independent witnesses to prove the distribution.

23. In rebuttal, the respondent Ramsingh (R.W. 1) and Shivrajsingh (R.W. 8) have both denied the distribution of any pamphlets at Sagar similar to Ex. P-1 by

them on any date in the month of February. The evidence adduced in rebuttal does not suffer from any infirmity and blemish and appears to me to be reliable. I therefore hold that the distribution of pamphlets at Sagar by the first respondent or by his workers and agents with his consent has not been proved.

**24. Distribution of pamphlets at Deori.**—It has been alleged in the petition Ramsingh distributed the pamphlets similar to Ex. P-1 at Deori-kalan on 15th February 1967. Parasram Sahu (R.W. 6) distributed them there on 9th February 1967, 10th February 1967 and 17th February 1967. Manohar Rao Damle (R.W. 9) is alleged to have distributed them on 9th February 1967 and 17th February 1967. To prove the distribution of the pamphlets at Deori, the petitioner has examined Keshavprasad Pande (P.W. 8). Dwarkaprasad Katare (P.W. 16) and Ramnath (P.W. 20).

25. In her statement the petitioner deposed that she was told about the distribution at Deori by Dwarkaprasad Katare and she was given copies of the pamphlets (Ex. P-1) by him and Keshavprasad Pande. Keshavprasad Pande (P.W. 8) is totally silent in his statement about the distribution of the pamphlets nor has he said that he handed over any pamphlet similar to Ex. P-1 to the petitioner. Dwarkaprasad Katare (P.W. 16) does not corroborate the petitioner in respect of his handing over a pamphlet similar to Ex. P-1 to her. It is true that Dwarkaprasad Katare has deposed that he saw Ramsingh and Dr. Parasram Sahu (R.W. 6) distributing pamphlets similar to Ex. P-1 but in his own petition which he has filed challenging the election of Dr. Parasram Sahu he has not stated the fact that he saw Dr. Parasram Sahu and the respondent Ramsingh distributing these pamphlets. It does not stand to reason that if he had seen Parasram Sahu and Ramsingh distributing the pamphlets he would omit to mention this significant fact in his own petition. Dwarkaprasad Katare has also given evidence on the point that he had seen Dr. Parasram Sahu distributing pamphlets on 9th February 1967 in a Congress meeting and had seen Manohar Rao Damle (R.W. 9), Dr. Parasram Sahu (R.W. 6) and Ramsingh (R.W. 1) distributing similar pamphlets in the market of Deori-kalan on 17th February 1967. However, no witness has been examined on behalf of the petitioner to corroborate the testimony of Dwarkaprasad Katare. There is no allegation in the petition of the distribution of pamphlets by Dr. Parasram Sahu in a Congress meeting. It is very unlikely that Parasram Sahu being himself a candidate at the election would himself go to the meeting of the rival candidate and distribute the pamphlets there. The statement of Dwarkaprasad Katare does not inspire confidence and therefore I am unable to place any reliance on his statement.

26. The other witness Ramnath (P.W. 20) stated about distribution of the said pamphlets by Manohar Rao Damle in a Congress meeting held eight or ten days before the date of poll. He further said that that meeting was addressed by Seth Parmanand Bhai Patel of Jabalpur. There is no allegation in the petition about the distribution of pamphlets 8 or 10 days before the election at any meeting at Deori and for this simple reason the statement of Ramnath deserves to be rejected. It is also worthy of note that according to Ramnath (P.W. 20), Dwarkaprasad Katare (P.W. 16) was present in that meeting but Dwarkaprasad Katare himself is silent on the point.

27. In rebuttal, the respondent has given his own statement and has examined Dr. Parasram Sahu (R.W. 6) and Manohar Rao Damle (R.W. 9). They have all denied the allegations of distribution made against them. The evidence adduced on behalf of the petitioner is weak and conflicting and the evidence of Dwarkaprasad Katare is highly interested. I prefer to place reliance on the evidence adduced in rebuttal and hold that the distribution of pamphlets similar to Ex. P-1 by the first respondent and his workers and agents at Deori-kalan is also not proved.

**28. Distribution of pamphlets at Sanodha.**—It has been alleged in the petition that Dhaniram (R.W. 4) distributed pamphlets similar to Ex. P-1 at Sanodha on 20th February 1967. For proving distribution at Sanodha, the petitioner has examined Kanhaiyalal (P.W. 2), Premchand Jain (P.W. 6) and Jogeshwar Rao (P.W. 7). In rebuttal, there is the statement of Dhaniram (R.W. 4).

29. Kanhaiyalal (P.W. 2) deposed that on 20th February 1967 at Sanodha Bazar a pamphlet similar to Ex. P-1 had been given to him by the agent of the Jan Sangh candidate, Dhaniram. He also deposed that he passed on the said pamphlet on the evening of 20th February 1967 to Sahodrabai in the presence of Jageshwar Rao (P.W. 7). The petitioner, however, did not state that she received any pamphlet similar to Ex. P-1 from this witness at Sanodha. According to her, she received Ex. P-1 only at Deori from some children and from Dwarkaprasad Katare and

Keshav Prasad Pande. The testimony of Jageshwar Rao (P.W. 7) is to the effect that pamphlets similar to Ex. P-1 were distributed five or six days before the date of election by Ramsingh and Balaprasad Saraf and he handed over the pamphlet which he had received to the petitioner two days after the election in the presence of Kanhaiyalal (P.W. 2), Gokulprasad (P.W. 5) and Premchand Jain (P.W. 6). It is significant to note that there is no allegation in the petition about any distribution of pamphlets similar to Ex. P-1 five or six days before the date of election. It is also important to note that the petitioner in paragraph 17 of her statement stated that Kanhaiyalal is a congress worker and Jageshwar Rao is a communist worker and that both of them had worked for her. Kanhaiyalal (P.W. 2), however, has denied in para 5 of his statement about having done any work for the petitioner and Jageshwar Rao also in para 3 of his deposition has denied the fact of his being a member of the Communist Party. Kanhaiyalal stated in para 6 that Premchand Jain (P.W. 6) also gave a pamphlet to the petitioner in his presence. Premchand in para 4 stated that he had handed over a pamphlet similar to Ex. P-1 to Sahodraba on 22nd March 1967. These statements of Kanhaiyalal, Jageshwar and Premchand are materially different about the time when the pamphlet allegedly received by him was made over to Sahodraba.

30. Premchand (P.W. 6) was a polling agent on behalf of the Congress at the Sanodha polling station. He deposed that he had received pamphlet similar to Ex. P-1 on 20th February 1967 at 8 A.M. from Dhaniram. Admittedly Dhaniram also was the polling agent at the said polling station of the Jan Sangh Party. The polling hours were from 8 A.M. to 5 P.M. and according to the instruction No. 13 contained in the Instructions to the Presiding Officers, the polling agents are required to reach the polling station at least 15 minutes before the commencement of poll. Dhaniram has stated that he had reached the polling station at about 7-30 A.M. His statement appears to be reliable and therefore he could not have possibly distributed the pamphlet similar to Ex. P-1 to Premchand at 8 A.M. The solitary version of Premchand that the polling commenced at Sanodha at 8-30 A.M. in my opinion, is just an attempt made by him to show that the distribution of the pamphlets as alleged by him at 8 A.M. was possible and is not worthy of acceptance. Dhaniram in his deposition has completely denied the story of distribution of pamphlets on the date of poll or on any other day. The evidence adduced by the petitioner is inconsistent and contradictory and in my opinion cannot be acted upon. I therefore, hold that the distribution of pamphlets at Sanodha as alleged in the petition has also not been proved.

31. Distribution of pamphlets at villages Mahajpur and Hasana on 16th February 1967, and at village Dharrai and Tipurpani on 17th February 1967.—The question of distribution of the pamphlets at these four villages on the two dates specified above may be discussed together. In the petition it is alleged that Govindprasad (P.W. 9) distributed pamphlets similar to Ex. P-1 at these villages on the said dates. Govindprasad admittedly worked as polling agent on behalf of Parasaram Sahu who was a Jan Sangh candidate for the Assembly seat. Govindprasad asserted in his deposition that he distributed the said pamphlets along with Parsadi (R.W. 3) a week before the date of election. He also said that the alleged pamphlets were given to him for distribution in the presence of Keshavprasad Pande (P.W. 8) and Narayansingh Lodhi (P.W. 10). However, both these witnesses are completely silent on the point of pamphlets similar to Ex. P-1 having been given to Govindprasad for distribution or on the further point about distribution of these pamphlets. It would also be noted that the allegations in the petition are for distribution on 16th February 1967 and 17th February 1967 but the evidence which has been adduced is of distribution a week before the date of election. It is also note worthy that Govindprasad has not stated about the distribution at Tipurpani. Parasdi (R.W. 3) has completely denied the alleged fact of the distribution of Ex. P-1 as alleged by Govindprasad and Dr. Parasram Sahu (R.W. 6) has denied giving any pamphlet similar to Ex. P-1 for distribution. In my opinion, the solitary statement of Govindprasad is not worthy of belief and on the basis of that statement it cannot be held that the petitioner has proved the distribution of the pamphlet similar to Ex. P-1 at these villages.

32. I would, therefore, hold that it has not been established by the petitioner that the first respondent or his workers and agents with his consent distributed any pamphlets similar to Ex. P-1 at the places where their distribution was alleged. Issue No. 4(b) is decided against the petitioner.

33. Issues Nos. 5(a), 5(b) & No. 7.—In view of the decision of issues Nos. 4(a) and 4(b) against the petitioner, issues Nos. 5(a), 5(b) and No. 7, are more or less of mere academic importance, because even if it is held that the contents of the pamphlet Ex. P/1 fall within the mischief of the corrupt practice specified under

Section 123(2), S. 123(3) or S. 123(4) of the Act, the petitioner does not get any benefit, because it is settled law that in the trial of an election petition, the burden or proving that the election of a successful candidate is liable to be set aside on the plea that he was responsible directly or through his agents for corrupt practices at the election, lies heavily upon the applicant and unless it is established in both its branches, i.e., the commission of acts which the law regards as corrupt, and the responsibility of the successful candidate directly or through his agents or with his consent for its practice not by mere preponderance of probability, but by cogent and reliable evidence beyond any reasonable doubt, the petition must fail. However, to make the record complete, I would record my finding on these issues also.

34. The question whether an appeal was made in the name of the successful candidate's religion is not required to be considered. It is well settled that the Courts should not be astute to read into the words used in the appeal anything more than can be attributed to them on its fair and reasonable construction and the document must be read as a whole and its purport and effect determined in a fair, objective and reasonable manner. In reading such documents, it would be unrealistic to ignore the fact that when election meetings are held and appeals are made by candidates of opposing political parties, the atmosphere is usually surcharged with partisan feelings and emotions and the use of hyperboles or exaggerated language, or the adoption of metaphors, and the extravagance of expression in attacking one another are all a part of the game.—(See.... *Kultar Singh v. Mukhtiar Singh* (A.I.R. 1965 S.C. 141, paragraphs 8 and 9). The Supreme Court has expressed itself in the following words in *Jagdev Singh v. Pratap Singh* (A.I.R. 1965 S.C. 183):—

"Speeches made at political meetings held for canvassing votes must be examined in the context of the atmosphere of a political campaign and the passions which are generally aroused in such a campaign. In adjudging whether an appeal is made to the language of the candidate, a meticulous examination of the test of the speech in the serene atmosphere of the Court room picking out a word here and a phrase there to make out an offending appeal to vote for or against a candidate on the ground of language would not be permissible."

Again, the Supreme Court said in *Raman Bhai v. Dabhi Ajitkumar* (A.I.R. 1965 S.C. 669) that:—

"Election literature should neither be judged strictly nor taken literally. All the greater reason, therefore, that the Courts ought not to read more in such literature than what appears on its face."

35. The contents of the pamphlet Ex. P/1 have to be examined in the light of the aforesaid decisions. The learned counsel for the petitioner emphasises the heading of the handbill, which is to the effect that आपको धार्मिक भावनाओं पर वज्राघात", and it was urged that the heading makes it clear that the appeal was made to the religious sentiments of the readers of the pamphlet. In my opinion, the heading of the appeal cannot control or override the contents of the pamphlet, which have been extracted above. Secondly, any appeal to fall within the mischief of S. 123(3) must be an appeal to vote for the candidate on the ground of his religion. In the instant case there is not even a suggestion by any of the witnesses of the petitioner that Ramsingh made the appeal contained in Ex. P/1 on the ground of his religion. It is further to be noted that there is no suggestion that the petitioner was in any way called as a person who was adverse to the religious belief or tenets of the Hindu religion. A capital was sought to be made out of the fact asserted by some of the witnesses to the effect that while distributing the said pamphlet; it was said that to vote for the Congress would be tantamount to committing the sin of cow-slaughter, but there is no such allegation made in the petition, and, therefore, the evidence which has been adduced in excess of the pleadings has only to be ignored on the principle that no amount of evidence can be looked into upon a plea which was never put forward. See. *Siddik Mohammad Shah v. Mt. Saran and others* (A.I.R. 1930 P.C. 57). In a recent case a Division Bench of the Punjab High Court held in *Sadhu Singh v. Shumahar Singh* (A.I.R. 1966 PUNJAB 457) that:

"In the trial of election petitions, the rules as to pleadings as embodied in the Code of Civil Procedure are attracted and since the standard of proof in establishing corrupt practices is similar to that required in criminal trials, namely proof beyond reasonable doubt, considerable importance is attached to the case as made out in the election

petition itself. It is not possible to take into consideration evidence of corrupt practice which is not founded on the allegations contained in the election petition."

36. The essential ingredient of an allegation under S. 123(3) of the Representation of the People Act, 1951, is that there should be an appeal made by a candidate or his agent or any other person with the consent of the candidate to vote or refrain from voting for any person on the ground of his religion, race or community. The averment in the petition falls very much short of making an appeal to the electors on the ground of religion of the first respondent. If the crux of the appeal is desired to be understood, the various sentences said to have been used should be co-related. So read, the plain object of the appeal is to limelight the policy of the Jansangh in respect of cow protection and to criticize the Congress policy on the subject. Cow worshipping as such is not an idea behind the pamphlet. Similarly, asking for complete co-operation with body, heart and money cannot be equated with any appeal whatever to vote for anyone on the ground of religion. The appeal, when properly understood, only seeks co-operation to fulfil a cause deemed to be noble by the author of the pamphlet, and the cause of cow protection has been held in many cases to be justifiable, even on economic grounds. —(See *Mohansingh Rajput v. Bhanwarlal Nahata*: 1963 M.P.L.J. 498; and *K. C. Sharma v. Krishi Pandit Rishab Kumar and others*: A.I.R. 1960 M.P. 27).

37. The same question can be viewed from another point of view also. Article 25(1) of the Constitution expressly guarantees the right freely to propagate the religion and Article 29(1) guarantees the right of all sections of citizens residing in the territory of India or any part thereof who have a distinct language, script or culture of their own, to have the right to conserve the same. The corrupt practice defined in Clause (3) of Section 123 of the R.P. Act can be said to be committed when an appeal is made either to vote or refrain from voting on the ground of candidate's religion. It is the appeal to the electorate on the ground personal to the candidate relating to his religion which attracts the mischief of Section 100 read with Section 123(3). Therefore, it is only when the electors are asked to vote or not to vote because of the particular religion of the candidate that corrupt practice may be deemed to be committed. In *Jagdev Singh v. Praap Singh* (A.I.R. 1965 S.C. 183), in the context of an appeal having been made on the ground of language, their Lordships held that where for conservation of language of the electorate appeals are made to the electorate and promises are given that steps would be taken to conserve that language, it cannot amount to a corrupt practice. What their Lordships said on the point, in my humble opinion, applies equally well in case of religion. The term "propagate" which has been used in Article 25(1) of the Constitution, is a term of wider meaning and connotation than the word "conserve" which has been used in Article 29. The right to propagate means to disseminate or diffuse statement, belief or practice, and the word "conserve" means to preserve. The fundamental right which is guaranteed by Art. 25(1) cannot be lost sight of, and Sec. 123(3) cannot be so interpreted as to nullify or trench upon that right.

38. It will also be seen that the appeal which has been made in the pamphlet Ex. P/1 can be said to be an appeal made to the religious mind of people generally. It is not an appeal merely to the followers of a particular religion. In this view also the said appeal cannot be treated an appeal to vote for the first respondent on the ground of his religion. This was the view taken in *K. C. Sharma v. Krishi Pandit Rishab Kumar and others* (supra). For all these reasons, I am of the view that the pamphlet Ex. P/1 does not fall within the mischief of S. 123(3) of the Act.

39. The interpretations put on paragraphs 4(II)(D) to 4(II)(L) of the petition by the petitioner are also, in my opinion, absolutely unwarranted and incorrect. It is true that at the time of the election sometimes a reference to the party or even to the symbol of the party may refer to the candidate of that party. But I do not agree that the name of the Congress party was mentioned in the pamphlet to indicate the Congress candidate. The pamphlet Ex. P/1, when read fully, shows that the contents thereof are a comment on the policy of the Congress Government of not banning the cow slaughter during its regime of 19 years. There is no proof adduced by the petitioner to show that cow is worshipped as a goddess. It is true that the cow is a very useful animal in the economic life of the Indian Nation and, therefore, people generally or a large section of them may be interested in the protection of cow, but that by itself does not make cow a religious symbol. An appeal to the voters to vote in the name of cow and

for protection of cow is not an appeal on the ground of religion, as held by this Court in *K. C. Sharma v. Krishi Pandit Rishab Kumar and others* (*supra*) and *Mohansingh Rajput v. Bhanwarlal Nahata* (*supra*). On a fair reading of the pamphlet, it cannot be said that the Jansangh candidate has been represented as a representative of Indian culture and civilization, as alleged in paragraph 4(II) (E) of the petition. I am further of the view that even if he were held to be so represented there is nothing in this description to bring the appeal within the mischief of Sections 123(2), 123(3) or 123(4) of the Act. In paragraph 4(II) (F), it was alleged that there was an innuendo in the pamphlet that the Congress candidate was interested in the slaughter of cow or its progeny. This interpretation, in my opinion is unwarranted and a far-fetched interpretation of the pamphlet. There is no appeal made in the pamphlet in the name of the religion of the first respondent.

40. It is alleged in para 4(II) (H) of the petition that false statement has been made in the petition in relation to the personal character, conduct and candidature of the petitioner. However, in my opinion, the pamphlet does not contain any such thing. There is no attempt made in the pamphlet to hit or adversely affect the person beneath the politician. Similarly the allegation in the petition is that the Congress symbol has been distorted in the pamphlet to mean that it is nothing more than a picture of cow slaughter, I am unable to agree with this contention. It is significant to note that none of the witnesses appearing for the petitioner supported any such interpretation. In Clause 4(II) (J), it has been urged that the said pamphlet also constitutes a corrupt practice of undue influence inasmuch as it induced or attempted to induce people that they would become an object of divine displeasure by voting Congress, as it will amount to vote to a person who is guilty of cow slaughter. In my opinion, there is nothing in the language of the pamphlet or any other proof adduced to suggest that there was any act practiced to interfere with the free choice of a candidate by the electors. There is no evidence to show that any elector was induced on grounds of religion while making him believe that he will become or will be rendered an object of divine displeasure by voting for the Congress. There is nothing on record which goes to show that there was any inducement held out within the mischief of Sub-section (2) of S. 123 of the Act. There is also nothing to suggest that the choice of the candidate was not to be made on merit, but on extraneous considerations. I would, therefore, hold that no corrupt practice falling under Ss. 123(2), 123(3) or 123(4) of the Act has been made out against the first respondent and the interpretation placed on the pamphlet in the various Clauses of the petition, namely: paragraphs 4(II) (D) to 4(II) (M) to bring the said pamphlet within the mischief of Sections 123(2), 123(3) or 123(4) of the Act are wholly erroneous. Thus, both parts of issue No. 5 and Issue No. 7 are decided against the petition.

41. Issue No. 6.—Whether Keshoprasad Pandey or Deori and Keshri Singh of Regunwa who are mentioned to be the workers of respondent No. 1 in para 4(II) (C) of the petition are proved to be the workers of respondent No. 1? If so, what effect?

Keshoprasad Pandey (PW. 8) has deposed that he worked for the Jansangh party in the last general elections and that he worked in the whole of Deori Assembly constituency. In that constituency the Jansangh candidate for Lok Sabha was the first respondent. It is thus proved that the said Keshoprasad Pandey was a worker of the first respondent. As regards Keshri Singh of Regunwa, there is no evidence at all adduced to show that he was a worker of the first respondent at the time of the last general election. As no objectionable acts of Keshoprasad Pandey resulting in the commission of any corrupt practice have been proved, the fact of Keshoprasad Pandey being found out to be a Jansangh worker, has absolutely no effect in this case. This issue is, therefore, decided accordingly.

42. Issue No. 8(A)—Was Uttamchand Jain a worker and/or supporter of Jan Sangh Party at the time of election, or whether he was a Congress man and worker of the Congress Party at that time?

The evidence of Prabhudayal Tiwari (PW. 17) is to the effect that Uttamchand Jain of Patari was a Jansangh worker. The first respondent has denied this fact in paragraph 6 of his deposition. No other evidence has been adduced to show that Uttamchand Jain was a Jansangh worker. This is a case of oath

against oath and the evidence adduced on behalf of the petitioner, in my opinion, is not sufficient to show that Uttamchand Jain was a Jansangh worker. Issue No. 8(a) is, therefore, decided against the petitioner.

43.—Issue No. 8 (B)—Whether the said Uttamchand Jain spread news in the village Hardwani on 20th February, 1967 to the effect that dacoits had taken advantage of the absence of voters from their houses and were going to commit dacoities and to set fire to their houses at Hardwani, and as a result of this, whether some voters of Bandra Constituency, district Sagar, (Polling Station No. 38) returned to their houses without casting their votes and whether some others did not at all go because of the fear actuated by the said false news?

The averment made in para 3(A) of the petition is that on 20th February, 1967, Uttamchand Jain of village Patari, a staunch supporter of Jansangh, and one Gangaram of Banda, another staunch Jansangh worker, spread the news with the consent of respondent No. 1, that the dacoits having taken advantage of the absence of the voters from their houses have raided the village Hardwani and had committed dacoities. It was also said that the dacoits had set fire on their houses. It is further averred that due to the said spreading of the false and mischievous news actually 400 voters returned home without voting and other voters of the locality did not leave their houses at all owing to the fear actuated by the said false and alarming news. Such persons numbered about 200. It is averred that the said fraudulent acts interfering with the free exercise of right to vote amount to undue influence within the meaning of S. 123(2) of the Act.

44. The evidence adduced on behalf of the petitioner on this issue consists of her own statement and that of her witnesses, Prabhudayal Tiwari (P.W. 17) and Kailashnath Shukla (P.W. 18). The petitioner has deposed in paragraph 7 of her deposition that at Jagthar polling-station on the polling day at about 11 or 12 noon, this rumour was spread that dacoits had come there and they would loot the village. She further stated that due to this rumour 300 persons did not go to vote at Jagthar polling station and about 400 persons, who were waiting there to vote, went back without voting. She stated that she was informed, about these facts by Prabhudayal Tiwari. She has also said that at 9 or 10 A.M. on that day when she was going to Jagthar in her jeep-car some people met her on the way, who were returning from Jagthar and they told her that due to the spreading of the rumour of decoits they were going back. It is thus clear from her deposition that in one part of her statement she has said that the rumour about the said decoits was spread at 11 A.M. or 12 noon, but in the other part she has said that at 9 or 10 A.M. she had been informed by the people returning from Jagthar polling station about the spreading of rumour of dacoits. It will further be seen that the substantial evidence on the point is that of Prabhudayal Tiwari (P.W. 17), because the petitioner has claimed knowledge of the rumour about dacoits having been conveyed to her by him. Prabhudayal Tiwari's version of the said rumour is quite different. He has said that when he went to give his vote at about 1 P.M., he found that a large number of voters were standing in a queue and, therefore, he took his seat under a tamarind tree. He further deposed that Uttamchand Jain then came there and talked to him and some others and asked them to vote for Jansangh. Devisingh, who was present there told Uttamchand Jain that they had decided to vote for the Congress. It is said by him that thereafter Uttamchand Jain ran away and came there after half-an-hour with Gangaram and both of them then told him and others that a dacoity had been committed at village Hardwani. He said that on hearing the rumour of a dacoity having been committed at village Hardwani, the voters of Hardwani village ran away. He has said that the number of those voters may be about 100. In cross-examination, he has clearly said that there was no rumour spread on the date of election about dacoits having raided village Jagthar. There is nothing in his statement to support the petitioner's contention that about 400 persons who were waiting to vote, returned away and about 300 persons did not come to vote. If the number of persons who did not vote at Jagthar polling station due to the spreading of any rumour was so large that fact could be established easily from the result-sheet of Jagthar polling station and it was easily possible for the petitioner to examine at least some of the witnesses from Jagthar who had come to vote but returned after waiting due to the spreading of the said rumour, as also those others who did not stir out of their houses on the date of polling due to the said rumour, but that has not been done.

45. So far as Uttamchand Jain is concerned it is in evidence that he died shortly after the election and, therefore, he could not be cited as a witness by

the first respondent, Kailashnath Shukla (P.W. 18) was the Station House Officer of the Banda police station at the relevant time. It was said by the petitioner that a report of the said rumour for dacoity had been made at Banda police station and the matter was investigated into. Kailashnath Shukla has filed Ex. P/20, which goes to show that a report was made at Banda police station at 15.35 P.M. about the rumour of the dacoity. Exhibit P/21 is the other report, which was entered there on the dictation of the witness, Kailashnath Shukla. He has said that as soon as the report Ex. P/20 was received at the police station, he was asked by the Dy. Superintendent of police, Shri Mohansingh, to reach Hardwani village and he went there immediately. He found that the said rumour was based on a mistake which was committed in this way, that some members of the Special Armed Force had reached village Hardwani on the date of election, i.e., 20th February, 1967 and they were taken by mistake to be the dacoits. Kailashnath Shekla said clearly that he did not come to know as to who had spread that rumour. The report Ex. P/20, which contains the rumour about that dacoity, was recorded by Durgaprasad in the absence of Kailashnath Shukla. This Durgaprasad has not been examined in the case as a witness to prove that report. The evidence of the petitioner and her witnesses does not tally. Actually, according to Prabhudayal Tiwari, the rumour was spread at Jagthar nearabout 2 P.M., whereas the petitioner has given two versions of the rumour having been spread at 9 or 10 A.M. or at 11 A.M. or 12 Noon. I do not place any reliance on this conflicting evidence and hold that it has not been proved that Uttamchand Jain spread any news at Jagthar of the dacoits having entered the village Hardwani and committing dacoities there. I may also stress that there is absolutely no evidence adduced in the case to show that the said rumour was spread by Uttamchand Jain with the consent of the first respondent. If the corrupt practice of spreading that false rumour had been committed by Uttamchand Jain, it was necessary for the petitioner to prove that the same had been committed with the consent of the first respondent. In spite of that allegation having been made in the petition, proof about that consent has not been given.

46. According to Section 100(1)(d), if any corrupt practice is committed in the interest of the returned candidate by an agent other than his election agent, the result of the election must be shown to have been materially affected in so far as it concerns the returned candidate. Under Sec. 100(1)(b), if any corrupt practice has been committed by the returned candidate or his election agent or by any person with the consent of a returned candidate or his election agent, the election of the returned candidate should be declared to be void regardless of the question as to whether the result had been materially affected or not. There is no evidence adduced to show that the result of the election has been affected in any manner. Therefore, issue No. 8(B) is answered in the negative and decided against the petitioner.

#### 47. Issue Nos. 9 to 12

**Issue No. 9.**—Whether Phoolchand, son of Nandkishore Jain, told the voters at Baraitha polling station No. 21 of Banda Constituency on or about 19th February 1967 that those who vote for the Congress candidate would be guilty of cow-slaughter and would be disloyal to Hindu religion? If so, what is the effect?

**Issue No. 10—(a)**—Whether Ram Charan Pujari, Khoob Chand Dedia and Gulabchand Jain made the propaganda attributed to them in para 4(III)(C) of the petition and whether the propaganda made by them amounts to a corrupt practice within the meaning of Section 123 (4) of the R. P. Act, 1951?

(b)—Whether Gulabchand Jain is a Jansangh worker and an agent of the first respondent or whether he is a Congress worker or agent of the petitioner?

**Issue No. 11—(a)**—Whether a Gotai Kalar was a Jan Sangh worker at the election eve?

(b)—Whether the said Gotai Kalar spread news on 20th February 1967 at village Shahpur that the petitioner had died of heart failure?

(c)—If any such news was spread, has the election been materially affected?

**Issue No. 12**—Whether on 20th February 1967 at Jasonda polling station (No. 22) of Tehsil Banda, Shri Umroasing, Dayaram and Dalchand who were the polling officers at the said station persuaded voters to vote for and secured votes for the Jan Sangh candidate as alleged in para 4(III)(F) of the petition?

These issues were not pressed on behalf of the petitioner for want of evidence. They are, therefore, all decided against the petitioner.

48. Issue No. 13.—Whether Chandmal Seth did the acts attributed to him in para 4(III)(G) of the petition on being asked by the respondent No. 1 and whether the said acts amount to a corrupt practice under section 123(2) of the R. P. Act?

This issue relates to the averments made in para 4(III)(G) of the petition. It is alleged that at Rahatgarh polling station on or about 10th February 1967, Chandmal Seth, a Jan Sangh worker was instigated by respondent No. 1 to contact Muslim voters who were in favour of Congress candidates and to compel them to vote for respondent No. 1. It is further alleged that Chandmal Seth actually assaulted Pir Mohammad, son of Abdul Shakoor, of Rahatgarh "when he was affixing Congress Badge." A report was made of this incident at the police station Rahatgarh and it is alleged that an enquiry also was held. It is averred that the said practice amounted to undue influence. Pirbux (P. W. 11) deposed that on 5th February 1967, when he was going for canvassing work, Chandmal met him on the way and caught-hold of him and snatched his Congress-badge and gave him a blow and told him not to vote for Congress, otherwise they (Muslims) will be killed and their houses will be burnt. In his cross-examination he admitted that though his shirt was torn it was not seized by the police or by the Deputy Collector to whom he had reported about the incident. He also stated that he had not prosecuted Chandmal for his having assaulted him and having threatened him with his life.

49. Except the bare word of Pirbux, there is nothing to show that the said Chandmal is a Jan Sangh worker. There is absolutely no evidence in the case that the first respondent Ramsingh had asked or authorized Chandmal to behave in the manner that he did and to threaten the Muslim population of Rahatgarh with dire consequences in case they did not vote for him. Even if it were assumed that Chandmal had assaulted Pirbux in the manner described by him, as there is no proof of the act of assault having been done with the consent of respondent No. 1 the act does not amount to a corrupt practice under section 123(2) of the Act. The issue is answered accordingly.

50. Issue No. 14.—Whether on 20th February 1967 the first respondent and his agent Dhaniram with the consent of the first respondent, circulated a false news at Shahpur and Sanodha, that petitioner's heart had failed and therefore votes will be wasted if the petitioner was voted? If so, what is its effect?

Issue No. 15(a).—Whether the first respondent and his agent Dhaniram with his consent similarly spread a false news about the heart failure of Shri Rameshwar Pateria who was a Vidhan Sabha candidate from Rehli Constituency, on 20th February 1967 at Shahpur and Sanodha? (b) Whether on account of the said false news, which are alleged to amount to corrupt practices under section 123(3), the election of the first respondent is void under section 100(1)(b)?

Both these issues may conveniently be discussed together. It is averred in the petition that on 20th February 1967 the first respondent and his agent Dhaniram (R. W. 4) with the consent of the first respondent circulated a false news at Shahpur and Sanodha that the petitioner's heart and that of Shri Rameshwar Pateria (who was a Vidhan Sabha candidate from Rehli) has failed. The petitioner in her deposition stated with regard to the said rumour having been spread at Shahpur that she was told by Khaniyalal (P.W. 2), Jageshwar Rao (P.W. 7)-Premchand Jain (P. W. 6) and Gokulprasad (P. W. 5). She stated that these persons had told her that Dhaniram and Gutai Kalar both of whom were Jan Sangh workers had spread the rumour that the heart of the petitioner and that of Rameshwar Pateria had failed. She further stated that she was told at Sanodha about the said rumour having been spread at Sanodha on the date of election in the evening, Premchand (P.W. 6) is absolutely silent in his deposition on this point. Gokulprasad (P.W. 5) stated that both Ramsingh (R.W. 1) and Dhaniram (R.W. 4) had told some persons in his presence that both Sahodrabai and Brijkishore Pateria had died of heart failure. It would be noticed that the version of Gokulprasad introduces the name of Brijkishore Pateria in place of Rameshwar Pateria. Jageshwar Rao (P. W. 7) stated that Dhaniram was telling some persons at Sanodha that Sahodrabai and Rameshwar Pateria had died of heart failure. Both Ramsingh (R. W. 1) and Dhaniram (R.W. 4) have totally denied spreading

any rumour which is attributed to them. The statements of Kanhaiyalal, Gokulprasad and Jageshwar Rao are absolutely unnatural in the sense that each one of them has said that when the said rumour was spread, no one asked any question to Dhaniram or Ramsingh about the manner or circumstances in which they had died. I am not impressed at all by their testimony. I accept the denials made by Ramsingh and Dhaniram in rebuttal and decide both these issues against the petitioner. As the finding I have reached is that no such rumour was spread, the question about its effect does not arise for consideration.

**51. Issue No. 16.**—Whether the first respondent and all other Jan Sangh candidates from all the Legislative Constituencies under Sagar Lok Sabha Constituency, between 13th February 1967 to 20th February 1967 canvassed that the petitioner was not Chamar by caste; and whether by doing so, a corrupt practice under section 123(2) was committed?

On this issue the solitary evidence which has been adduced in the case is of the petitioner herself. It is true that she has said that on behalf of the first respondent and other Jan Sangh workers a propaganda was made to the effect that she did not belong to the Chamar caste and as she was a Khangar she should not be voted. However, when she was asked to state the names of the persons from whom the said information was conveyed to her she was unable to name any person. There can be no doubt that if the first respondent and other Jan Sangh workers had made the propaganda attributed to them, many persons could be brought in the witness-box on behalf of the petitioner to depose about it. In the absence of any other evidence I find it absolutely unsafe to place reliance on the bare word of the petitioner. This issue is therefore decided against the petitioner.

**52. Issue No. 17(a).**—Whether both the ballot papers of Vidhan Sabha and Lok Sabha were issued simultaneously to the voters by the polling officers at the time of voting in all the polling stations?

(b) Whether simultaneously issue of these ballot papers contravened the rules and procedure as alleged in para 4(IV)(A) of the petition?

(c) Whether this simultaneous issue of ballot papers created confusion in minds of illiterate voters and in large number of cases they failed to properly affix their marks on both the ballot papers?

(d) Whether this mistake on the part of the polling officers has materially affected the result of election?

This issue is based on the averments made in the petition that both the ballot papers of Vidhan Sabha and Lok Sabha were simultaneously issued to the voters by the polling officers at the time of voting in all the polling stations. Statements supporting this contention have been made in the witness-box by the petitioner in para 12. Govindprasad (P.W.9) and Narayansingh Lodhi (P.W.10). It is however curious to note that not a single witness has stated that due to the issuance of both the ballot papers simultaneously he was misled and he did not put the seal mark on one of the ballot papers. Dr. Ishwardas (P.W.13) has clearly stated in para 7 of his deposition that his instructions to the Presiding Officers were that if the voter was educated and he demanded both the ballot papers, one for the Lok Sabha and the other for the Vidhan Sabha to be given to him simultaneously, he may be so given. In other cases, those ballot papers were given separately. The procedure described to have been adopted by Dr. Ishwardas is the one which is prescribed under the rules. It is also significant that petitioner's election agent Gangasingh (P.W. 4) has not stated that the ballot papers were issued simultaneously. If both the ballot papers were being simultaneously issued in the manner suggested by some of the witnesses of the petitioner it could not be said that Gangasingh would have failed to notice it. On the basis of the evidence on record, I record the finding that simultaneous issue of these ballot papers has not been proved and therefore there remains no question of any rules and procedure having been contravened as is alleged in para 4(IV)(A) of the petition. With regard to issue No. 17(c) also there is absolutely no evidence to show that any confusion was created in the minds of the illiterate voters. Similarly there is no evidence to show that the result of the election has been materially affected by wrong procedure in the issue of ballot papers having been adopted. Thus, all the four parts of issue No. 17(a), (b), (c) and (d) are decided against the petitioner.

**53. Issue No. 18(a).**—Whether most of the supervisors to the counting were the school teachers, held on 21-2-1967 and 22-2-1967?

(t) Whether respondent No. 1 was a teacher and as such he had wide support from teachers as a class?

The first respondent has admitted in the witness-box that by profession he was a teacher but there is absolutely no evidence adduced in the case to prove that most of the supervisors in the counting staff were the school teachers and the first respondent had wide support from them. Issues 18(a) and (b) are therefore decided against the petitioner.

**54. Issue No. 19.**—Whether several votes of the petitioner having distinct mark on the petitioner's symbol on the ballot papers were rejected as some impression of marking was also seen on other portions of ballot paper due to wrong folding?

**Issue No. 20(a):** Whether at several polling stations the stock of red ink used in the pads for getting the marking impression in the seals to be fixed on ballot papers went out of stock?

(b) Whether blue ink was used in the absence of red ink in the ink-pads for the purpose of making in the ballot papers?

(c) Whether the ballot papers bearing marking in blue ink were rejected?

It would be convenient to discuss these issues together as they relate to the question of the improper rejection of votes which are alleged to have been cast in favour of the petitioner. In para 4(IV)(B) of the petition it was alleged that at the time of counting several ballot papers, which showed that elector had indicated his choice to vote for the petitioner, were rejected on flimsy grounds, such as, the marking was not complete, or, in folding, some impression of marking was also seen on the other portion of the ballot paper. It is alleged that most of the ballot papers which were in favour of the petitioner were rejected, whereas the ballot papers showing similar defects were held valid and counted in favour of the first respondent. It was also alleged that at several polling stations the stock of red ink had exhausted and the Presiding Officers made the use of blue ink on the pads, and markings of seals were therefore made in blue ink as the red ink was not available. It was alleged that ballot papers bearing markings by blue ink were rejected. It has further been alleged that majority of such ballot papers showed that votes were cast in favour of the petitioner. It was further pleaded that such defects were noticed in Bina Legislative Assembly Constituency and at the request of the Jansangh candidate Shri Rajaju, a recount was ordered and substantial difference was noticed on recount. In her deposition the petitioner stated that votes were rejected on the grounds (i) that there were seal marks with blue ink instead of red ink; (ii) that there were no marks on the ballot paper although in fact a seal mark was there; and (iii) that a second impression of the seal had been made on the ballot paper in the process of folding. Her election agent Gangasinh (P.W. 4) assigned two reasons for the rejection of votes (i) that there were seal's not on the bullock marks but on slides; and (ii) that instead of the seals being in red ink they were with blue ink.

**55.** Dr. Ishwardas, who was the Returning Officer, has been examined by the petitioner as P.W. 13. In para 5 of his deposition he has categorically stated that "there was not a single ballot paper which was rejected on the ground of the use of the blue ink." He further stated that "in the rejected ballot papers there were some ballot papers found which had the mark of seal with blue ink." But he made it clear in paragraph 6 of his deposition that the rejection of such votes was not on the ground that the colour of the seal was blue and wherever such votes were rejected the rejection took place on other grounds. The first respondent in para 11 of his deposition stated that in counting of votes no ballot papers in favour of the petitioner were rejected on the ground that the seal mark was with blue ink and not with red ink. He further stated that no votes either in his favour or against him were rejected on the ground of the colour of the ink used in putting the seal marks. He also stated that no votes of Sahodrabai were rejected on the ground that in the folding of votes a second impression of the seal had been produced on the ballot paper and no votes in her favour were rejected on the ground that the seal marks were faint. He also deposed that it did not happen that due to the faintness of the ink of the seal mark, the votes were treated as if they did not bear any seal mark.

**56.** Sahodrabai admitted that she had appointed three counting agents. She stated that she did not know whether any one of her three counting agents had raised any objection about counting at the time when counting was in progress. Ramsingh (R.W. 1) stated that at the time of counting no objection by Sahodrabai or her counting agent was raised in respect of the manner of counting but at the end Gangasinh (P.W. 4) had made two applications.

57. This is the total evidence of the parties with regard to the two issues. In my opinion, the said evidence does not in any manner establish that any valid votes of Sahodrabai were improperly rejected or there was any discrimination practised in the counting. On the point that ballot papers bearing blue ink seals were rejected, the testimony of Dr. Ishwardas (P.W. 13) is categorical and I place reliance on it. This evidence completely demolishes her version and that of Gangasingh in which they have made grievances about the rejection of votes because the seals were put by the blue ink. It is further significant to note that whereas Sahodrabai has deposed that certain ballot papers were rejected on the ground of no marks although a seal mark was there, Gangasingh has not spoken of this reason for rejection of votes in his deposition. Instead, he has stated that when there were seals not on the bullock marks but on sides, the ballot papers were rejected and the petitioner does not support Gangasingh in the said version. Thus their versions are not consistent. It will also be seen that whereas Sahodrabai complains of the rejection of votes on the ground of a second impression of seal having been made in the process of folding, Gangasingh has remained absolutely silent on that point. I am not impressed by the statements of Sahodrabai and Gangasingh and I discard them. Relying on the evidence of Dr. Ishwardas (P.W. 13) and Ramsingh (R.W. 1), I decide both these issues against the petitioner. I record the finding that no votes of the petitioner were rejected on the ground of some impression or marking having been seen on other portions of the ballot paper due to folding. I also hold that no votes were rejected merely on the ground that the ink used in seals was blue and not red though it is established that in some ballot papers there were markings of blue ink instead of red ink.

58. *Issue No. 21.*—Whether the application for recount of votes for Sagar, Parliamentary Constituency made by the petitioner through her counting agent was rejected by the Returning Officer on invalid and insufficient grounds?

*Issue No. 22.*—Whether for giving the details of the votes wrongly rejected and votes wrongly accepted in favour of the petitioner, the inspection of the rejected ballot papers by the petitioner can be allowed and is necessary?

I have recorded the finding on issues Nos. 19 and 20 that no errors have been proved to have been committed in the rejection, refusal or reception of votes. This finding by itself should go a long way to decide these issues against the petitioner. The petitioner's election agent Gangasingh (P.W. 4) made two applications Ex. P-7 and P-6 on 22nd February, 1967 before the result was finally announced. According to the Returning Officer, Ex. P-7 was submitted to him first. In Ex. P-7 it is alleged that in the Scheduled Seat Constituency of Lok Sabha about 10615 ballot papers were treated as void and many of these ballot papers should have been counted in favour of the petitioner. It is apparent that the application Ex. P-7 did not state any reasons for the recounting being done. In Ex. P-6 it was stated that in the counting of the Vidhan Sabha seat of Bina Constituency the ballot papers with blue ink had been rejected. It was praved that they should be counted again. It was further urged that in the counting of the Khurai Vidhan Sabha Constituency some of the votes of the petitioner were unnecessarily rejected. On these grounds the recounting of the rejected ballot papers of Khurai and Bina Constituencies was desired. On both these applications the order Ex.P-8 was passed by the Returning Officer. The order emphasizes the fact that during the counting though the counting procedure was explained, the election agents and counting agents of the petitioner did not raise any objection. It was stressed that the petitioner herself remained present on 21st and 22nd February practically throughout the duration of counting and was moving in the premises but did not bring to the notice of the Returning Officer a single instance of improper rejection. It has also been mentioned in Ex. P-8 that Gangasingh who acted as her of any ballot paper by the counting supervisors or by the Assistant Returning counting agent for two days also did not make any complaint of improper rejection and the applicant merely requested for recount without mentioning any grounds on which such a demand or request was made. The Returning Officer therefore considered these applications to be frivolous and unreasonable.

59. Gangasingh (P.W.4) in his deposition stated that when he made the applications Ex.P-6 and P-7 he was asked by the Returning Officer to deposit Rs. 250/- if the recounting was to be desired and he went to arrange for this amount and by the time he returned he found that the applications were already rejected. This statement of Gangasingh is on the face of it absurd and unbelievable. The Returning Officer denied the fact of his having asked Gangasingh to deposit Rs. 250/- for recount. It is further significant to note that Gangasingh admits clearly that on

21st February, 1967 he did not tell the petitioner that counting was being done in a mistaken or erroneous manner. The reason for not making any complaint in writing stated by him is this that the Collector had assured to consider his objections at the end. This statement of Gangasingh is found to be not corroborated by the testimony of the Returning Officer Dr. Ishwardas (P.W.13). The petitioner herself stated in para 22 of her deposition that on 21st February, 1967 she did not complain to any authority because she did not detect any mistake in counting on that date. With regard to 22nd February, 1967 she stated that she had made the complaint between 2 and 3 P.M. She plainly stated that she did not lodge any complaint 22nd February, 1967 earlier because she did not come to know of any mistake being committed on that day till then. She also said that when the complaint was made by her, it was immediately attended to. Thus, there is nothing in the statement of the petitioner or her counting agent to warrant inspection of the ballot papers or a partial or entire recount.

60. The principles about inspection and recounting have been explained by their Lordships of the Supreme Court in *Ram Sewak Yadav v. Hussain Kamil Kidwai and others* (AIR 1964 SC 1249). The following observations of their Lordships may be stressed :

"An order for inspection may not be granted as a matter of course : having regard to the insistence upon the secrecy of the ballot papers, the Court would be justified in granting an order for inspection provided two conditions are fulfilled :

- (i) that the petition for setting aside an election contains an adequate statement of the material facts on which the petitioner relies in support of his case; and
- (ii) the Tribunal is *prima facie* satisfied that in order to decide the dispute and to do complete justice between the parties inspection of the ballot papers is necessary.

But an order for inspection of ballot papers cannot be granted to support vague pleas made in the petition not supported by material facts or to fish out evidence to support such pleas. The case of the petitioner must be set out with precision supported by averments of material facts. To establish a case so pleaded an order for inspection may undoubtedly, if the interests of Justice require, be granted. But a mere allegation that the petitioner suspects or believes that there has been an improper reception, refusal or rejection of votes will not be sufficient to support an order for inspection."

61. The only fact that the first respondent won by a small majority is not a valid consideration either for allowing inspection of ballot papers or for ordering a recount of the votes. The petitioner has failed to make out any case for the inspection of ballot papers and recount. These issues are, therefore, decided against the petitioner.

62. In the result, the election petition filed by the petitioner Sehodraval falls and is dismissed with costs. I assess the counsel's fee at Rs. 750/- The remaining amount out of the security amount shall be refunded to her after deduction of the costs of the first respondent.

Sd/- S. P. BHARGAVA,

Judge.

16-4-1968.

[No. 32/MP/10/67.]

New Delhi, the 29th May, 1968

**S.O. 2073.**—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Madras hereby nominates Shri K. Venkata-raman, Deputy Secretary to the Government of Madras, Public (Services) Department, as the Chief Electoral Officer for the State of Madras with effect from the 2nd May, 1968 vice Shri H. K. Ghazi proceeded on leave.

[No. 154/7/68.]

By Order,

K. S. RAJAGOPALAN, Secy.

New Delhi, the 29th May 1968

**S.O. 2074.**—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby published the Order, pronounced on the 19th April, 1968 by the High Court of Judicature for Rajasthan at Jodhpur in Civil Misc. Restoration Application No. 93 of 1967 relating to the Election Petition No. 19 of 1967.

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

ORDER

Civil Miscellaneous Restoration Application No. 93 of 1967

Vs.

1. KESHARI LAL KAVI, S/o. Birdha  
Ram of Dhana Talai Tonk.

2. RADHA KISHAN GOEL.

1. NARAIN PRAKASH, S/o. Nandram  
of Dhana Talai Tonk.

2. JAMNA LAL, Tonk.

3. CHAUTHMAL.

4. RAMGOPAL.

5. RAM NATH.

Date of order: April 19, 1968.

PRESENT:

The Hon'ble Mr. Justice L. N. Chhangani.

Shri C. K. Garg for the petitioner: Keshari Lal Kavi.

M/s. R. K. Rastogi and M. C. Bhoot.—For the respondent No. 2.

By the Court.

This is a miscellaneous petition by Shri Keshari Lal Kavi and Shri Radha Kishan Goyal (who shall hereafter be referred to as applicants No. 1 and 2 respectively) under Order 9 Rule 8 read with section 151, Civil Procedure Code (which shall hereafter be referred to as the Code) and section 87 of the Representation of the People Act, 1951 (which shall hereafter be referred to as the Act) containing a prayer in the following terms:—

"It is therefore prayed that the applicant No. 1's absence may kindly be excused and the order of taking proceedings *ex parte* against him may be set-aside and further restore the petition to its original number and allow the applicants to be substituted in place of the petitioner and be allowed to prosecute the petition."

The material and relevant facts under which this application has arisen may be given as follows:—

In the fourth general elections for the Lok Sabha that is, House of People, held in February, 1967, six persons including the applicant No. 1 and the five non-applicants contested for the Lok Sabha seat from the scheduled caste Parliamentary Constituency of Tonk. The non-applicant No. 2 Shri Jamna Lal and two others indicated in their nomination papers first preference in favour of allotment of symbol "star" which was the officially approved symbol of the Swatantra party. As no authorised person on behalf of the Swatantra party had intimated to the Returning Officer either the name of its approved or substituted candidate by 3 P.M. on 23rd January, 1967, the Returning Officer while allotting symbols to the various candidates allotted the symbol of "horse" to the non-applicant No. 1 and supplied to all the contesting candidates a list of the contesting candidates along with the symbols allotted to them. The non-applicant No. 2 moved an application before the Election Commission on 24th January, 1967, for revising the order of the Returning Officer and allotting the symbol of "Star" to him. The Election Commission, after making queries, from the Returning Officer on the application of the non-applicant No. 2 assigned to him the official symbol "Star" of the Swatantra party. It may be mentioned that the decision of the Election Commission was given without notice to the non-applicant No. 1 or to the applicant No. 1. Eventually, as a result of the polling the non-applicant No. 2 Jamna Lal was declared elected to the Lok Sabha.

The non-applicant No. 1 thereupon submitted an election petition in this Court on 8th April, 1967. In that election petition the non-applicant No. 1 made no reference to the details of the results of the election but challenged the election

of the non-applicant No. 2 Shri Jamna Lal on only one ground. According to the non-applicant No. 1 the *ex-parte* decision of the Election Commission cancelling the free symbol "horse" assigned to the non-applicant No. 2 by the Returning Officer and substituting the same by the official symbol "star" of the Swatantra party was wholly illegal, arbitrary, without jurisdiction and *ultra-vires* of the powers of the Election Commission. It was further the non-applicant's case that consequently, the results of the election were materially affected to the great detriment and prejudice of the non-applicant No. 1 and other contesting candidates. The non-applicant No. 1 prayed for a declaration that the election of the non-applicant No. 2 was void. In that election petition the applicant No. 1 was impleaded as respondent No. 2. The election petition was contested by non-applicant No. 2 Jamna Lal. The applicant No. 1 who was respondent No. 2 in that petition, did not contest the election petition and allowed the case to proceed *ex-parte* against him. Issues were framed on 7th July, 1967, and the case was fixed on 16th August, 1967, for recording evidence. On 16th August, 1967, the election petitioner Narain Prakash who is non-applicant No. 1 in the present petition, did not appear in Court and, therefore, his statement could not be recorded. Two witnesses were present but the counsel for the petitioner non-applicant No. 1 did not examine them with a statement that he could not examine them in the absence of any instructions from his client. The two witnesses were thus discharged. No other witness was present in Court and the counsel for the election petitioner closed his evidence. The respondent No. 1 Jamna Lal's counsel led no evidence. Arguments were heard and eventually the election petition was dismissed on 16th August, 1967, on the ground that the allegations made in the election petition remained unsubstantiated and unproved.

On 15th September, 1967, the applicants filed the present application with the prayer which has already been reproduced in the earlier part of the judgment.

In this application the applicants put forward their case as follows:—

In the first instance, the applicants referring to the non-examination by the counsel for the non-applicant No. 2 of the two witnesses present in Court stated in para 3 of the application as follows:—

"But surprisingly enough the said witnesses had not been examined by the petitioner's counsel on the ground that he had not received instructions from the petitioner. No fresh instructions were necessary. That he should be presumed to have continued to represent his client under the authority and instructions already given to him."

In para 4 the applicants referred to the facts, (i) that the non-applicant No. 2 was elected as Member of Parliament from Tonk Constituency of Parliament on Swatantra Party ticket; (ii) that he crossed the floor of Parliament by resigning from the party and joined congress; and that (iii) the non-applicant No. 2 addressed a letter dated 21st July, 1967 to the President, Swatantra Party, Rajasthan, Jaipur, giving certain reasons for his resignation from the Swatantra party. The applicants further case is that the non-applicant No. 2 advanced absolutely false reasons for his resignation from the Swatantra party in order to cover his own weaknesses and the bargain that he could strike between himself and the non-applicant No. 1 for the withdrawing of the election petition and his joining congress. Proceeding further the applicants stated in para 5 that the non-appearance of the non-applicant No. 1 on 16th August, 1967 and the non-examination of the witnesses on that date by his counsel was a deliberate act. "According to them, it was taken recourse to for the purposes of shutting out the evidence from being brought on record and circumvent the provisions of withdrawal of the election petition and at the same time getting it dismissed for non-prosecution. This deliberate act on his part was a result of the collusion between him and the non-applicant No. 2 and the bargain that the latter could strike between himself and the non-applicant No. 1 and the influential persons in the congress." The applicants then gave a number of facts in sub-paras of para (5) in support of the above statement. In para (6) the applicants averred that "the election petition is not a mere contest between the parties only but brings about a situation in which the whole constituency is interested". After referring to the provisions relating to the withdrawal of the election petition and relating to the substitution of parties in consequence of the death of the petitioner or the respondent the applicants pointed out that the election petition cannot be allowed to be defeated by the collusion of the parties. The applicants then stated that "the non-applicant No. 1 adopted a method by which he has tried to circumvent the provisions of withdrawal by not appearing himself and further by seeing that the evidence was shut out from being brought on record". In para (7) the

applicants averred that had they known that the non-applicant No. 1 was likely not to pursue and prosecute the election petition and that he would abandon the same as a result of some bargain or collusion, the applicant No. 1 would have himself appeared on all the dates of hearings and not remained absent and would have been that the petition was duly prosecuted upto the conclusion of the full trial. The applicants thereafter enumerated various grounds on which the application was based. The applicant No. 1 Kesar Lal swore an affidavit in support of the application and presented a few documents.

Notices of the application were issued to the various non-applicants including Shri Jamna Lal—non-applicant No. 2. Only Shri Jamna Lal appeared and contested the application. Others put in no appearance.

Shri Jamna Lal in his written reply took the following defences:—

1. "That Shri Keshar Lal applicant No. 1 was served with a summons to appear as a witness on 16th August, 1967. He could and should have appeared on 16th August, 1967 in the capacity of a party and also of a witness. At the stage at which the case was on 16th August, 1967 he did not perform his duty in helping the Court in doing justice. He should have been present in Court to watch the proceedings as a party and should have appeared as a witness to find out the truth, but he failed to do either. He defied the summons of the court and did not do what he could have done at the proper stage and has now appeared in this Hon'ble Court to set aside the dismissal and reopen the case. His conduct shows that he wants to abuse the process of the court. The application is motivated to harass the answering respondent and to put undue pressure on him to have gains in party politics."

2. "Correctly speaking there was no evidence with the election petitioner to prove the material effect on the election even if the irregularity if any, within the meaning of section, would have been proved. According to the law as laid down by the Supreme Court it was almost impossible to prove the material effect."

3. "That the applicants want to reopen the case so as to change the witnesses and multiply their number and start a fresh so as to put pressure on the answering respondent for fear of that and to act according to their dictates in party politics.

4. Referring to the non-examination of the two witnesses the non-applicant No. 2 averred as follows:—

"The examination of those witnesses who were present would have served no useful purpose in absence of other evidence. In the absence, the stand taken by the Collector was not accepted by the Election Commission in the matter of the allotment of the symbol. What he reported in writing to the Election Commission, was not agreed upon by the Election Commission, hence his report became disputable. The examination of the Collector and the answers elicited in the examination would have thrown light on the alleged irregularities and that might have gone in favour of or against the election petition. Hence the Advocate for the election petitioner was to decide whether to remain satisfied with the report of the Collector or to examine him and probably he wanted to seek instructions from his client. The answering non-applicant can only submit the probabilities. The Advocate for election petitioner might have acted in the best of his judgment on the circumstances as they presented themselves to him. Simply because he did not act in a manner which according to the present applicants was more proper, it cannot be said that his action was malafide or collusive. The Advocate for the election petitioner did not represent that he had no instructions to appear in the case for his client or to conduct the case and probably he did not like to take the risk of examining the Collector in the absence of instruction for fear of reducing the effect of written report which was already in his favour. The other official witness was formal one. The Advocate for the election petitioner argued the case on the material on the record."

The non-applicant No. 2 denied the allegations relating to the crossing of the floor of the Parliament by him. Referring to his resignation from the Swatantra Party, he averred that it was an internal matter of the party and had no relevance in the proceedings. The non-applicant No. 2 emphatically denied the allegations in paras 4(a) and (5) relating to bargain and collusion between the no-applicant No. 1 & non-applicant No. 2 for withdrawal of the election petition. He also denied

the allegations in para (6) relating to the circumvention of the provisions of law relating to the withdrawal of the election petition. In this connection the non-applicant No. 2 specifically observed as follows:—

"The applicant No. 1 failed in his duty as a party and a witness. The least which he should have known was that he was to appear as a witness and help in expediting the disposal of the petition. His conduct in not appearing on 16th August, 1967, so lightly according to him amounts to the contempt of the authority of the court. The reason given by the applicant No. 1 for not appearing on 16th August, 1967, cannot be a sufficient cause."

The non-applicant No. 2 also gave a detailed reply to the various grounds relied upon by the applicants in para (7). The non-applicant No. 2 in his additional pleas averred that the applicants had no *locus standi* to present the application and that the application was not maintainable under any provisions of law.

I heard counsel for the parties at length.

In support of the application the counsel put forward some alternative contentions. In connection with the first contention the applicant's counsel formulated the following propositions:—

1. That the decision of this Court dated 16th August, 1967, cannot be treated as a decision on merits so as to fall within the language of section 98 of the Act.
2. That this Court could not have dismissed the election petition in default on non-appearance of the petitioner as the dismissal of election petition on the ground of non-appearance of the petitioner is contrary to law and causes injustice and denies the rights of the entire electorate who are unquestionably interested in the proceeding.
3. That as the non-applicant No. 1 though not openly withdrawing the petition was trying collusively to keep back the available evidence for sustaining the grounds taken in the petition. The applicant No. 1 was entitled to support the grounds by leading evidence to prove them.

Elaborating his contention, the counsel contended that the decision of this Court being not a decision on merits but being a mere dismissal of election petition on non-appearance is legally inoperative and that the election petition should be treated as being pending and that the applicant No. 1 as one of the respondents to the election petition, is entitled to lead evidence in support of the petition.

In support of the first proposition, the counsel relied upon two premises—

(1) That although the non-applicant No. 1's witnesses were present, his counsel did not examine them on account of absence of instructions from his client. According to him, the counsel as per his own showing, had no instructions in the case and, therefore, his presence in the case was of no avail and it was a case where the non-applicant No. 1 should be treated to have committed default in appearing in the Court which could attract the provisions of Order 17, Rule 2 of the Code in the cases of suits.

(2) That 16th August, 1967, was fixed for recording evidence in the ordinary course of things and was not got fixed on an adjournment sought by the non-applicant No. 1 and at his instance. According to him, the necessary conditions to attract the applicability of Order 17, Rule 3, of the Code, for a decision on merits were not satisfied.

After giving my careful consideration to the facts of the case and the relevant law bearing on the point I have no hesitation in concluding that the petitioner has not been successful in establishing the first premise. It is true that the non-applicant No. 1's counsel did not examine the two witnesses present in Court with a statement that "he could not examine them in the absence of instructions from the petitioner." But, from this, it will not be legally justified to jump to the conclusion that the counsel had no instructions to appear. The counsel while expressing his inability to examine the witnesses cannot be taken to mean that he had no instruction to appear in the case. The proper interpretation of the counsel's conduct is that although there was no withdrawal of his authority and instructions to appear and act on behalf of the non-applicant No. 1

he was disabled from examining the witnesses on account of the absence of necessary and reasonable assistance from the client in properly examining the witnesses. In support of this view, I may refer to the observations made by a Division Bench of the East Punjab High Court in *Sm. Ruprani Devi v. V. Christopher Southern Lewis and others* (1). After referring to the counsel's arguments that a case of a counsel who says that he is unable to act on his client's behalf is analogous to that of one who states that he has no instructions, the learned Judge speaking on behalf of the Court observed as follows:—

"In my opinion the two cases are wholly distinct from each other. The scope of the authority of a counsel who is engaged by his client to represent him in a case is limited to the instructions given to him. These instructions may be either to put in appearance on his client's behalf or to act for him. When a counsel asserts that he has no instruction, the inference is that he has no instructions even to appear on his client's behalf, so his appearance is considered as tantamount to no appearance. But when a counsel appears and states that he is not able to do a particular act, he cannot be taken to mean that he has no instructions to perform that act. On the other hand, I would take him to mean that though he had been instructed to perform that act, something has happened which has disabled him from doing it, or he has otherwise failed in his duty in spite of the instructions".

That the non-applicant No. 1's counsel in the election petition had instructions to conduct the case is amply established by his act of closing the non-applicant No. 1's evidence and arguing the case. It may be also significantly pointed out that the applicants themselves have unambiguously stated in the petition that the non-appearance of the non-applicant No. 1 on 16th August, 1967, and the non-examination of the witnesses on that day was a deliberate act and it was taken recourse to for the purposes of shutting out the evidence from being brought on record and circumvent the provisions of withdrawal of the election petition and at the same time getting it dismissed for non-prosecution. This deliberate act on his part was the result of the collusion between him and the non-applicant No. 2. It was also stated in the petition that the counsel for the non-applicant No. 1 could examine the witnesses as no fresh instructions were necessary and that he should be presumed to have represented the client under the instructions and authority already given to him.

Having regard to these facts relied upon by the applicants and the circumstances of the case, I am wholly unable to accept the applicants' contention that it was a case of non-appearance of the non-applicant No. 1 in court on 16th August, 1967, and that the petition could not have been consequently disposed of on merits. On the other hand, I am very clear that the petitioner was fully represented by his counsel who permitted the trial of the election petition to be concluded and the case disposed of on merits.

As for the second premise, I agree with the counsel for the applicants that the provisions of Order 17 Rule 3 of the Code could not be invoked in the present case. Order 17, Rule 3 of the code enables a Court to dispose of the case on merits when a party had been granted time to do one or other of the three things mentioned in the rule viz. to produce evidence or to cause the attendance of his witness, or to perform any other act necessary to the further progress of the suit when the default has been committed by such party in doing the act for which the time was granted. In the present case, 16th August, 1967, was fixed in the ordinary course of things and the non-applicant No. 1 had not been granted time for doing any one of the three things mentioned above. In this view of the matter, Order 17, Rule 3 of the Code could not have been applied. To say this, however, cannot amount to saying that this Court could not have disposed of the election petition on merits. Order 17, Rule 3 of the Code permits decision on merits in cases of certain default. It has no relevance when the trial is otherwise concluded without any default by either side. In that case there could be decision on merits without invoking Order 17, Rule 3 of the Code. One can easily imagine the parties producing their evidence and concluding the trial on one day and it will be ridiculous to state that there was no decision on merits since Order 17, Rule 3 of the Code could not be invoked

(i) A.I.R. (36) 1949 East Punjab 83.

as none of the parties had committed any default. In the present case, the non-applicant No. 1's counsel did not examine the two witnesses present in Court and closed the non-applicant No. 1's evidence. The respondent (non-applicant No. 2) also closed his evidence. They then addressed the Court and eventually this Court held that the allegations in the petition remained unsubstantiated and dismissed the election petition. The decision, in my opinion, was clearly on merits and the applicants' counsel cannot be heard to say that the decision could not be treated as one on merits. Having regard to these findings in connection with the two premises relied upon by the applicants' counsel the applicants' counsel has not been successful in establishing the first proposition. This Court's decision dated 16th August, 1967, having been given on merits an application for setting aside the decision with the help of Order 9 Rule 8 read with section 151 of the Code is unmaintainable and deserved to be rejected on this ground alone. However, as the learned counsel for the parties addressed lengthy arguments on the various other points I have thought it proper to record my findings on them also.

Taking up the second proposition I may at-once state that the Courts had occasion to consider the question of the competence of the Election Tribunal to dismiss the election petition in default under the provisions of the Code of Civil Procedure under the law as it stood prior to the amendment by the Amendment Act No. 47 of 1966. In *Sunderlal Mannalal v. Nandramdas Dwarkadas and others* (2) the law was laid down as follows:—

"No the Act does not give any power of dismissal. But it is axiomatic that no Court or tribunal is supposed to continue a proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal, therefore, is an inherent power which every tribunal possesses."

The full Bench of the Kashmir High Court in *Dina Nath Kaul v. Election Tribunal Jammu and Kashmir and others*<sup>(3)</sup>, however, expressed a contrary opinion. After referring to Supreme Court cases *Mallappa Basappa v. Basavaraj Ayyappa*<sup>(4)</sup>, *Jagan Nath v. Jaswant Singh*<sup>(5)</sup>, and *Kamaraja Nadar v. Kunju Thevar*<sup>(6)</sup> the Bench observed,

"These authorities establish that once an election petition is before the election Tribunal, it has to proceed to completion according to the provisions of the Representation of the People Act, and it is not open to the petitioner to exercise his option to prosecute the petition or not or to abandon or withdraw it wholly or in part.

It follows that the dismissal of an election petition on the ground of non-appearance of the petitioner is contrary to law and causes injustice and denies the rights of the entire electorate who are unquestionably interested in the proceedings.

The order of the Election Tribunal dated 3rd December, 1967, dismissing the election petition preferred by the second respondent under the provisions of O. 9 R. 8 is therefore, plainly erroneous, unjust and untenable in law."

The Full Bench, therefore, refused to issue a writ of certiorari under Article 226 of the Constitution to quash a subsequent order setting aside the order of dismissal dated 3rd December, 1957 and restoring the petition.

In *Vishwanath Prasad v. Malkhan Singh Sharma and others*<sup>(7)</sup> a Division Bench of the Allahabad High Court commenting upon the view taken in *Sunderlal Mannalal v. Nandramdas Dwarkadas*<sup>(2)</sup> stated as follows:—

"We, with great respect, are unable to agree with this line of argument. A tribunal cannot be said to possess inherent powers to dismiss an election petition in any way it likes. If the party does not appear before the Tribunal and does not produce the necessary evidence

(2) A.I.R. 1958 Madhya Pradesh 260.

(3) A.I.R. 1960 Jammu and Kashmir 25.

(4) A.I.R. 1958 Supreme Court 693.

(5) A.I.R. 1954 Supreme Court 210.

(6) A.I.R. 1958 Supreme Court 687.

(7) A.I.R. 1964 Allahabad 181.

for the issue and the burden of proof is upon that party or does not submit arguments before the Tribunal to convince it to decide the issue in its favour, then the Tribunal may decide it against that party, but it must be a decision on the merits. The issue which is before the Tribunal must be decided. It is not necessary for the Tribunal to wait indefinitely. The Tribunal may close the case and decide the issue but there is no reason for holding that the Tribunal has power to dismiss the petition without deciding the issues."

It was further observed as follows:—

"Since we have already held that the Tribunal had no power to dismiss the election petition for default, the question of restoring does not arise. In the eye of law the election petition was still pending and not disposed of. By the subsequent order the Tribunal had merely removed the effect of an order which was wrong and had no effect on the proceedings. The election petition had never been properly disposed of and therefore the tribunal was right in deciding to proceed with it."

In Sawalia Behari Lal Verma v. Tribikram Deo Narain Singh and other's (<sup>2</sup>) a Division Bench of the Patna High Court scrutinised the Supreme Court cases relied upon by the Full Bench of the Kashmir High Court in Nath Kaul v. Election Tribunal J. and K. (<sup>3</sup>) for their conclusion and examined the relevant provisions of the statutory law and eventually recorded agreement with the decision of the Division Bench of the Madhya Pradesh High Court in Sunderlal Mannalal v Nandramdas (<sup>2</sup>). The Bench observed,

"The position, indeed would be a baffling one if it were to be laid down that even if the petitioner chose not to prosecute a petition or lead evidence the Tribunal must go on with the case. I may only add to the reason assigned in the judgment that s. 90(i) is sufficiently wide to make order 9 of the Code of Civil Procedure applicable to all election disputes under the Representation of the People Act. It is no doubt, true that there is an observation in the judgment of their Lordships of the Supreme Court that the powers of the Tribunal under section 92 of the Act are different from the powers of a Court under the Code of Civil Procedure. That, however, cannot be taken to have the effect of nullifying the clear provision of section (90(i)) of the Act that the procedure to be followed by the Tribunal in disposing of the election petition would be that of the Code of Civil Procedure. Order 9 is a part of the Code of Civil Procedure, and there is no reason to hold that it would not apply to the present case, because there is no such restriction provided in the Representation of the people Act itself making this Order 9 inapplicable to the election cases".

After the amendment of the Representation of the People Act in the year 1966 the point came up for consideration in a full Bench Case; Jugal Kishore v. Doctor Baldev Parkash, Finance Minister, Punjab at Chandigarh (<sup>4</sup>) in which Grover J. as he then was, dealing with the point observed as follows:—

"I venture to think, with respect, that the Patna view is correct. It is quite clear that there is no distinct provision in the Act laying down any particular or special procedure which is to be followed when the petitioner chooses to commit default either in appearance or in production of evidence or generally in prosecuting the petition. The provisions of the Code of Civil Procedure would, therefore, be applicable under section 87 of the Act. I am further of the opinion that any argument which could be pressed and was adopted for saying that the inherent powers of the Court could not be exercised in such circumstances would be of no avail now as the High Court is a Court of Record and possesses all inherent powers of a Court while trying election petitions. There can be no manner of doubt that the observations made by Hidayatullah C.J. (as he then was) in A.I.R. 1958 M.P. 260 would be fully applicable."

(<sup>2</sup>) A.I.R. 1965 Patna 378.

(<sup>3</sup>) Election Petition No. 9 of 1967 decided on 9-8-67 by Punjab High Court.

With great respect, I agree with the opinion expressed by Grover J. and hold that the High Court has power to dismiss an election petition on non-appearance of the election petitioner. The second proposition advanced on behalf of the applicants cannot, therefore, be accepted.

I do not consider it necessary to adjudicate upon the controversy relating to the third proposition formulated by the applicants' counsel who states neither on assumption that where an election petitioner though not openly withdrawing the petition was trying collusively to keep back the available evidence for sustaining the ground taken in the petition any respondent can claim to lead evidence to prove the allegations made in the election petition. Indeed, the two cases Lahri Singh v. Attar Singh and others (10) and Roop Chandra Sogani and others v. Rawat Man Singh and others (11) support them. The applicants, however, do not derive any assistance in the present case from the proposition formulated by them and the two cases relied upon by them. In both these cases the election petitions were pending and before their disposal when the respondents came forward alleging non-prosecution by the petitioners and expressing their intention to lead evidence in support of the election petitions. In the present case the election petition stood disposed of by this Court's order dated 16th August, 1967. At the time of the filing of the present application by the applicants the petition was not pending and, therefore, there could be no question of the respondent being permitted to lead evidence in support of the election petition. I may also observe that the principle relied upon in these two cases cannot be extended to enable a respondent who allowed the election petition to proceed *ex parte* and who remained absent till the disposal of the election petition and who did not even care to appear on the date of the dismissal of the election petition in spite of his summons to appear as a witness in the case, to challenge the order of dismissal and to obtain restoration of the election petition and then to lead evidence in support of the allegations contained in the petition.

The contention of the petitioners in support of the present petition on the basis of the three propositions initially formulated by them thus has no force and is rejected.

The alternative contention of the applicants is that the non-applicant No. 1 and non-applicant No. 2 entered into some kind of bargain for securing the dismissal of the election petition and that they adopted tactics of getting the election petition dismissed by an omission to produce evidence and in doing so they circumvented the provision of the Act relating to the withdrawal of the election petition. It was contended that in doing so the non-applicant No. 1 committed a fraud upon the constituency securing an order of dismissal of the election petition. An order obtained by fraud should not be treated as valid and operative and deserves to be ignored. It was prayed that this Court should ignore the order and permit the applicants to lead evidence in support of the allegations contained in the election petition so as to do justice to the constituency. I regret, I cannot accept this contention also. As pointed out by Grover J. as he then was, in the Full Bench Case; Roop Chandra Sogani v. Rawat Man Singh (II) "there is no provision whatsoever by which a respondent who might have been a petitioner can be compelled or forced by the Court to prosecute the petition or adduce evidence in support of it owing to the default of the original petitioner and on his refusal to do so notice of such event can be published in the official gazette to enable some one, who might have been a petitioner, to apply and get substituted and then prosecute the petition. Nor can the Court give any decision on the merits worth the name in a petition which is not being prosecuted in the absence of any evidence which might have been adduced by the parties. It is difficult to believe that the Legislature intended that the Court in such circumstances should embark *sua motu* on an enquiry which it will be impossible to successfully complete unless some one is prepared to provide the material and the evidence and incur the expenses." The learned Judge in that case referred to the position under the English law and quoted extensively from Halsbury's Laws England, including the observations,

"If there are any indications of impurity in the election, it is impossible to shorten the case by concession between the parties. The Court must sit as long as there is anything which can be brought before it by the parties or the Director of Public Prosecutions relating to these allegations".

(10) 1953 Election Law Reports Vol. III page 403.

(11) 1953 Election Law Reports Vol. V page 327.

The learned Judge further observed.

"There is no such authority or officer in India who has been entrusted with the task which is being performed by the Director of Public Prosecutions in England in the matter of election petitions and election offences and unless such an agency is set up, it is not possible to see how the real purpose of the election petitions can be fully achieved where a petitioner after filing the election petition decides for some reason or the other to make persistent defaults in its prosecution, or even to deliberately withhold all the material evidence."

Having considered the principle laid down by Grover J. as also the reasoning in support of the principle, I am not prepared to accept the alternative contention of the applicants.

The application therefore, fails and is hereby dismissed. There will be no order as to costs.

(Sd.) L. N. CHHANGANI,  
[No. 82/19/67(RJ).]

#### ORDER

New Delhi, the 31st May 1968

**S.O. 2075.**—Whereas the Election Commission is satisfied that Shri Angrahit Lal, Village and P. O. Beherampur, Shahabad a contesting candidate for election to the House of the People from Buxar constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Angrahit Lal to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. ER-HP/37/67(27)]

By order,  
A. N. SEN, Secy.

#### MINISTRY OF HOME AFFAIRS

New Delhi, the 4th June 1968

**S.O. 2076.**—In exercise of the power conferred by the proviso to article 309 of the Constitution of India the President is pleased to make the following rules further to amend the Manipur Employees (Revision of Pay) Rules, 1966, namely:—

- (1) These rules may be called the Manipur Employees (Revision of Pay) Amendment Rules, 1968.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Manipur Employees (Revision of Pay) Rules 1966 in rule 9, clause (a) of sub-rule (3) shall be omitted.

[No. 1/16/65-HMT.]

R. C. JAIN, Dy. Secy.

## MINISTRY OF FINANCE

## (Department of Expenditure)

New Delhi, the 4th June, 1968

**S.O. 2077.**—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and of all other powers enabling him in this behalf and after consultation with the Comptroller and Auditor-General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following regulations further to amend the Civil Service Regulations, namely :—

1. (i) These Regulations may be called the Civil Services (Second Amendment) Regulations, 1968.  
 (ii) They shall come into force on the date of their publication in the official Gazette.
2. In the Civil Service Regulations, after Article 486-B, the following article shall be inserted namely :—

**"486-C.—**In respect of officers retiring from service on or after the date of publication of the Civil Service (Second Amendment) Regulations 1968, the term "emoluments" when used in this Part of the Regulations means the "Pay", as defined in Rule 9(21) of the Fundamental Rules, which the officer was receiving immediately before his retirement.

**NOTE 1.**—If an officer immediately before his retirement or death, has been absent from duty on leave with allowances, his emoluments for the purpose of calculating service gratuity and/or death-cum-retirement gratuity should be taken at what they would have been had he not been absent from duty:

Provided that the amount of gratuity is not increased on account of increase in pay not actually drawn and that benefit of higher officiating or temporary pay is given only if it is certified that he would have continued to hold the higher officiating or temporary appointment but for his proceeding on leave.

**NOTE 2.**—Pay drawn in a tenure appointment(s) will count provided the service in tenure appointment(s) does not qualify for the grant of special additional pension".

[No. 18(7)-E.V.(B)/65-Part II.]

R. P. CAPOOR, Under Secy.

## (Department of Economic Affairs)

New Delhi, the 4th June, 1968

**S.O. 2078.**—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-clause (i) of clause (c) of sub-section (1) of section 10 of the said Act shall not apply to the undernoted banking companies, till the 9th April, 1969, in so far as the said provisions prohibit their respective Chief Executive Officers, from being the directors of the Agricultural Finance Corporation Ltd., being a company registered under the Companies Act, 1956 (1 of 1956).

Name of banking company	Name and designation of Chief Executive Officer
1. The Central Bank of India, Ltd., Bombay	Shri V.C. Patel, Chairman.
2. The Bank of Baroda Ltd., Bombay	Shri M.M. Chokshi, Chairman.
3. The Punjab National Bank Ltd., New Delhi	Shri S.C. Trikha, Chairman.
4. The United Commercial Bank Ltd., Calcutta	Shri R.B. Shah, Chairman.
5. Dena Bank Ltd., Bombay	Shri Pravinchandra V. Gandhi, Chairman.
6. Syndicate Bank Ltd., Manipal	Shri T.A. Pai, Chairman.

Name of banking company	Name and designation of Chief Executive Officer
7. The Bank of Maharashtra Ltd., Poona	Sbri C.V. Joag, Chairman.
8. The Union Bank of India Ltd., Bombay	Shri F.K.F. Nariman, Chairman.
9. National and Grindlays Bank Ltd., Calcutta	Mr. E. Lloyd Williams, Chief Manager for India.
10. The Chartered Bank, Calcutta	Mr. J. Russell, Chief Manager for India.

[No. F. 15(1)-BC/68.]

V. SWAMINATHAN, UNDER Secy.

## (Department of Revenue and Insurance)

## CORRIGENDUM

## INCOME-TAX

New Delhi, the 4th June, 1968

**S.O. 2079.**—In the notification of the Government of India, in the Ministry of Finance, No. S.O. 395 dated 22nd January 1968, published in Part II, Section 3, sub-section (ii), at pages 409 to 417 of the Gazette of India dated 3rd February 1968, at page 410, in the entries under Schedule II, the following serial and the entries relating thereto shall be omitted, namely:—

1	2	3	4	5
*3.	M/s. Bombay Dyeing & Manufacturing Co. Ltd. Bombay.	Company 11,000	1961-62"	

[No. 47/F. No. 3/15/68-IT (Inv.)]

RAMANAND JAIN, Jt. Secy..

## MINISTRY OF COMMERCE

New Delhi, the 7th June 1968

**S.O. 2080.**—On his being relieved from the post of Chairman, Coir Board, Ernakulam, Shri V. M. Srikumaran Nayar, has with effect from the 16th May 1968, been granted earned leave for a period of 40 days.

2. On the expiry of his leave, the services of Shri V. M. Srikumaran Nayar are placed at the disposal of the Chief Controller of Imports & Exports, New Delhi.

[No. 22(1)-Tex(D)/68.]

A. G. V. SUBRAHMANIAM, Under Secy..

## ORDER

New Delhi, the 7th June 1968

**S.O. 2081.**—Whereas by the Order of the Government of India in the Ministry of Commerce, No. S.O. 1196, dated the 13th April, 1966, read with the orders of the Government of India in the Ministry of Commerce Nos. S.O. 1466, dated the 13th May, 1966, S.O. 1346, dated the 12th April, 1967, S.O. 2377, dated the 12th July, 1967, S.O. 2564, dated the 31st July 1967, S.O. 3088, dated the 1st September, 1967, S.O. 3308, dated the 15th September, 1967, S.O. 3695 dated the 16th October,

1967 and S.O. 1343, dated the 15th April, 1968, the management of the industrial undertaking known as the Swadeshi Cotton and Flour Mills Limited, Indore, had been taken over by the Authorised Controller referred to in the Order first mentioned above for a period upto and inclusive of the 15th June, 1968;

And whereas the Central Government is of opinion that it is expedient in the public interest that the management of the said industrial undertaking by the said Authorised Controller should continue for a period upto the 15th August, 1968;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (2) of section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby directs that the Order first mentioned above shall continue to have effect for a further period upto the 15th August, 1968.

[No. F. 10(8)TEX(A)/64-G.]

B. N. BANERJEE, Spl. Secy.

#### ORDER

New Delhi, the 10th June 1968

**S.O. 2082.**—In exercise of the powers conferred by section 18A of the Industries (Development and Regulation) Act 1951 (65 of 1951), and in partial modification of the notified order of the Government of India in the late Ministry of Commerce and Industry No. S.O. 581, dated 4th March 1963 (as subsequently modified), the Central Government hereby authorises with immediate effect, and for a period upto and inclusive of 31st December 1968, Shri T. G. Chowdhari to take over the management of the whole of the Pratap Spg. Wvg. and Mfg. Co. Ltd., Amalner, vice Shri S. A. Kher.

H. K. BANSAL, Dy. Secy.

[No. F. 13(1)TEX(G)/68.]

#### (Office of the Joint Chief Controller of Imports and Exports)

#### ORDER

Calcutta, the 14th May 1968

**S.O. 2083.**—A licence No. P/SS/1575368/C/XX/25/C/C/23-24/NF dated 27th June, 1967 of the value of Rs. 119482/- for import of Copper, Zinc & Tin was issued to M/s. United Metal Industries, Kankar Bagh Road, Patna, Bihar subject to the conditions as under:—

- (a) that all the goods imported under the said licence shall be used in the licence holders' factory and no portion thereof should be sold or otherwise disposed of.
2. Thereafter, a show cause notice No. 108/67/E&L dated 1st April, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that there is no prospect of the factory running on a regular basis even after receipt of imported Non-ferrous metals against Import licence in terms of Clause 9, sub-clause (c).
3. In response to the aforesaid show cause notice, M/s. United Metal Industries, Kankar Bagh Road, Patna, Bihar had, by their letter dated 13th April, 1968 furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their representative on 2nd May, 1968. In their said reply and at the time of personal hearing, the firm contended that their unit is in existence and are functioning regularly.
4. The undersigned has carefully examined the said representation and has come to the conclusion that the purpose for which licence in question was issued would not be served.
5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (c) of the Imports (Control) Order, 1955

hereby cancel the Licence No. P/SS/1575368/C/XX/25/C/C/23-24/NF dated 27th June, 1967 for Rs 119482/- issued in favour of M/s. United Metal Industries, Kankar Bagh Road, Patna, Bihar.

[No. 108/67/E&L.]

**S.O. 2084.**—A Licence No P/SS/1575342/C/XX/23/C/C/23-24/NF dated 23rd June, 1967 of the value of Rs. 7,29,540/- for import of Aluminium Wire Rods, E. C. Grade was issued to M/s. Electrical Cables and Conductors Pvt. Ltd., 3, Sukhlal Jahuri Lane, Calcutta-7 subject to the conditions as under:—

(a) all items under it shall be used only in the licence holder's factory at the address shown in the application against which the licence is issued or will be sold or permitted to be utilised by any other party. unit/purpose other than the one for which the licence in question issued or will be sold or permitted to be utilised by any other party. The licensee shall maintain proper account of consumption & utilisation of the goods imported against the licence.

2. Thereafter, a show cause notice No 31/68/E&L dated 11th April, 1968 was issued asking them to show cause within 15 days as to why the said licence in their favour should be cancelled on the ground that the factory of the firm has been closed in terms of Clause 9, sub-clause (cc).

3. No response to the aforesaid show cause notice has been received from M/s. Electrical Cables and Conductors Pvt. Ltd., Calcutta.

4. The undersigned has carefully examined the case and has come to the conclusion that the purpose for which the licence in question was issued would not be served.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under Clause 9 sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/1575342/C/XX/25/C/C/23-24/NF dated 23rd June, 1967 for Rs 7,29,540/- issued in favour of M/s. Electrical Cables and Conductors Pvt. Ltd., 3, Sukhlal Jahuri Lane, Calcutta-7.

[No 31/68/E&L.]

J. MUKHERJI,

Dy. Chief Controller of Imports and Exports.

#### (Office of the Chief Controller of Imports & Exports)

#### ORDERS

New Delhi, the 18th May 1968

**S.O. 2085.**—M/s. Behers Industries Works, Dhann Road, Maharashtra, were granted an Import Licence No P/RM/2149893/C/XX/23/CH, dated 20th June, 1966 for Rs. 8,000 (Rupees Eight Thousand) pre devaluation. They have applied for the issue of a duplicate customs purposes copy of the said licence on the ground that the original custom copy has been lost. It is further stated that the original custom copy was not registered with any custom House and the licence was not utilised and the balance available on it was Rs. 8,000 pre devaluation.

2. In support of this contention, the applicant has filed an affidavit. I am accordingly satisfied that the original custom purposes, copy of the said licence has been lost. Therefore, in exercise of the powers conferred under sub-clause 9/CC of the import control order 1955 dated 7th December, 1955 as amended, the said original exchange control purposes copy of licence No. P/RM/2149893, dated 20th June, 1966 issued to M/s Behers Industrial Works, Dhann Road, Maharashtra, is hereby cancelled.

3. A duplicate custom purposes copy of the said licence is being issued separately to the licensee.

[No. F. MACH/B/22-23/AM66/RM4/728/885.]

*New Delhi, the 31st May 1968*

**S.O. 2086.**—M/s. Printers House Private Ltd., 10, Scindia House, New Delhi were granted an import Licence No. P/RM/2160970/R/LA/28/CH/25.28 dated 29th November, 1967 for Rs. 65,585 (Sixty-five thousand five hundred and Eighty-five only). They have applied for the issue of a Duplicate Exchange Control Purposes copy of the said licence on the ground that the original exchange control copy was been lost. It is further stated that the Original Exchange Control Copy was registered with the National Grindlay Bank Ltd., Cannought Circus, New Delhi and utilised partly. It was utilised for Rs. 15,961.77 and the balance available on it was Rs. 49,623.23.

2. In support of this contention, the applicant has furnished an affidavit. I am accordingly satisfied that the original exchange control purposes copy of the said licence has been lost. Therefore in exercise of the powers conferred under sub-clause 9(CC) of the Import/control/order 1955 dated 7th December, 1955 as amended, the said original exchange control purposes copy of licence No. P/RM/2160970 dated 29th November, 1967 issued to M/s Printers House Private Ltd., 10, Scindia House, New Delhi is hereby cancelled.

3. A duplicate exchange control purposes copy of the said licence is being issued separately to the licensee.

[No. F. Mach/P/I/AM68/RM/IV/892.]

**S.O. 2087.**—M/s. Raghunand Chemical Industries Private Ltd., Bombay were granted licence No. P/RM/2153517/S/DL/23/C/H/23.24 dated 23rd August, 1966 from US Aid Loan valued at Rs. 4,44,472. They have requested for the issue of duplicate copy of the licence on the ground that the original Customs Purposes copy of the licence has been lost by them. It has been further reported by the licensee that the licence was lost after utilising Rs. nil. The licence has not been registered with any Collector of Customs.

In support of their contention the applicant have filed an affidavit. The undersigned is satisfied that the original Customs copy of the licence No. P/RM/2153517/S/DL/23/C/H/23.24 dated 23rd August, 1966 has been lost and directs that a duplicate customs copy of the said licence should be issued to them. The original Customs copy of the licence is cancelled. The duplicate Custom copy is being issued separately.

[No. CH/1(9)/A-M67/RM3/413.]

P. C. VERMA,  
Dy. Chief Controller of Imports & Exports.

**(Office of the Jt. Chief Controller of Imports and Exports)**

**(Central Licensing Area)**

**CANCELLATION ORDER**

*New Delhi, the 29th May 1968*

**S.O. 2088.**—M/s. M. Khajulal and Co., 2472/1948, Ram Ganj Bazar, Munshi Mahal, Jaipur were granted an import licence No. P/EP/2577500 dated 20th June, 1967. They have applied for duplicate Custom purpose copy of licence on the ground that the original custom purposes copy has been lost. It is further stated that original licence was not registered with any Custom House and not utilised.

In support of this contention the applicant has filed an affidavit. I am satisfied that the original Custom Purposes copy of licence No. P/EP/2577500 dated 20th June, 1967 has been lost and direct that a duplicate custom purposes copy of the licence should be issued to the applicant. The original customs purposes copy of the licence is cancelled.

[No. Gem.56/67/SC-IV/CLA.]

J. S. BEDI,  
Joint Chief Controller of Imports & Exports.

## (Office of the Chief Controller of Imports and Exports)

## ORDER

New Delhi, the 4th June 1968

**S.O. 2089.**—Two licences Nos. (i) P/RM/2159532 & (ii) P/RM/2159533 both dated 18th May, 1967 of the value of Rs. 1,15,000/- and Rs. 49,000/- respectively for the import of Raw Materials as per list attached to the licences were issued to M/s. New India Plastics and Leather Cloth Manufacturing Co., 349/116, Suppa Rous, Lucknow.

2 Thereafter, a show cause notice No. 10(12)/68-Vig dated 21st May, 1968 was issued in terms of Clause 9 of the Imports (Control) Order, 1955 as amended, asking them to explain within ten days as to why the said licences should not be cancelled on the ground that the same were obtained by them on the basis of forged recommendation of the Directorate General of Technical Development.

3. The aforesaid show cause notice has neither been received back undelivered nor has any reply been received from the firm though the time limit of ten days mentioned in the show cause notice has expired on 31st May, 1968.

4. The undersigned has carefully examined the case and has come to the conclusion that the said licences have been obtained on the basis of false and fabricated documents and the licence holders are avoiding a reply to the show cause notice.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned in exercise of the powers vested in him under Clause 9(c) of the Imports (Control) Order, 1955 hereby cancel the two licences Nos. (i) P/RM/2159532 & (ii) P/RM/2159533 both dated 18th May, 1967 for Rs. 1,15,000/- and Rs. 49,000/- respectively issued in favour of M/s. New India Plastics and Leather Cloth Manufacturing Co., 349/116, Suppa Rous, Lucknow.

[No. 10(12)/68-Vig.]

B. D. BHATTACHARYA,  
Dy. Chief Controller of Imports and Exports.

## (Office of the Chief Controller of Imports and Exports)

## ORDER

New Delhi, the 6th June 1968

**S.O. 2090.**—M/s. R. Chimnalal & Co., 86, Zaveri Bazar, Bombay-2 were granted an import licence No. P/NA/AD/2018479/C/XX/25/C/H/NQQ dated 10th April, 1967 for Rs. 18,900/- (Rupees eighteen thousand and nine hundred only) for the import of item Nos. 5, 11, and 15 of the list attached thereto. The licensee has now applied to this office for the issue of a duplicate Customs Purposes copy of the said licence on the ground that the original Customs Purposes copy of the licence in question has been lost. It is further stated that the original Customs Purposes copy of the licence has been registered with Bombay Port Customs House and has been utilised to the extent of Rs. 15,291/-. The duplicate Customs Purposes copy of the licence now required by the licensee is for the value of Rs. 3,809/- only.

In support of their contention the licensee have filed an affidavit as well as certificate from Customs authorities regarding unutilised balance. I am accordingly satisfied that the original Customs Purposes copy of the said licence has been lost. Therefore, in exercise of the powers conferred under sub-clause 9(CC) of the Import (Control) Order, 1955 dated 7th December, 1955 (as amended), the original Customs Purposes copy of the licence No. P/NA/AD/2018479/C/XX/25/C/H/21-22/NQQ dated 10th April, 1967 issued to M/s. R. Chimnalal & Co., 86, Zaveri Bazar, Bombay-2 is hereby cancelled.

A duplicate Customs Purposes copy of the said licence is being issued.

[No. NDRS/C-417/65-66/171.]

Y. J. DENNISON,  
Dy. Chief Controller of Imports and Exports.

**MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT  
AND COOPERATION**

(Department of Agriculture)

**CORRIGENDUM**

New Delhi, the 5th June 1968

**S.O. 2091.**—In the notification of the Government of India in the Ministry of Food, Agriculture, Community Development and Cooperation (Department of Agriculture) No. S.O. 249 dated the 6th January, 1968 and published in the Gazette of India, Part II, Section 3, sub-section (ii) at pages 205-209—

at page 205, in line 9, for "1967" read "1968".

[No. F.13-14/68-LA.]

V. S. NIGAM, Under Secy.

**MINISTRY OF STEEL, MINES AND METALS**

(Department of Mines and Metals)

**ERRATUM**

New Delhi, the 4th June 1968

**S.O. 2092.**—In the Notification of the Government of India in the Ministry of Steel, Mines and Metals (Department of Mines and Metals) S.O. No. 408, dated the 19th January, 1968 published in Part II—Section 3—Sub-section (ii) of the Gazette of India, dated the 3rd February, 1968,

At page 432—

For "No. S.O. 861 dated the 21st March, 1966" read "No. S.O. 861, dated the 14th March, 1966, published in Part II—Section 3—Sub-section (ii) of the Gazette of India, dated the 21st March, 1966".

[No. C2-22(2)/68.]

M. S. K. RAMASWAMI, Dy. Secy.

**MINISTRY OF HEALTH, FAMILY PLANNING AND URBAN DEVELOPMENT**

(Department of Health & Urban Development)

New Delhi, the 8th May 1968

**S.O. 2093.**—In exercise of the powers conferred by Section 21 of the Drugs and Cosmetics Act, 1940, (23 of 1940) the Central Government hereby appoints Shri A. K. Ogale, Drugs Inspector, Central Drugs Standard Control Organisation, Ghaziabad, as Inspector for the purpose of the said Act of the whole of India.

[No. F. 2-4/66D.]

AMAR NATH VARMA, Under Secy.

(Department of Health and Urban Development)

New Delhi, the 1st June 1968

**S.O. 2094.**—The following draft of rules further to amend the Drugs and Cosmetics Rules, 1945, which the Central Government proposes to make, after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by section 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), is published, as required by the said sections for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 1st September, 1968.

**2.** Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government:—

*Draft Rules*

**1.** These rules may be called the Drugs and Cosmetics (Amendment) Rules, 1968.

**2.** In rule 66 of the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the said rules), in sub-rule (1) for the proviso the following proviso shall be substituted, namely:—

"Provided that, where such failure or contravention is the consequence of an act or omission on the part of an agent or employee, the licence shall not be cancelled or suspended if the licensee proves to the satisfaction of the licensing authority,

- (a) that the act or omission was not instigated or connived at by him or, if the licensee is a firm or company, by a partner of the firm or a director of the company, or
- (b) that he or his agent or employee had not been guilty of similar act or omission within twelve months before the date on which the act or omission in question took place, or where his agent or employee had been guilty of such act or omission, the licensee had not or could not reasonably have had, knowledge of that previous act or omission, or
- (c) if the act or omission was a continuing act or omission, he had not or could not reasonably have had knowledge of that previous act or omission, or
- (d) that he had used due diligence to ensure that the conditions of the licence or the provisions of the Act or the Rules thereunder were observed."

**3.** In rule 67-H of the said rules, in sub-rule (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided that, where such failure or contravention is the consequence of an act or omission on the part of an agent or employee, the licence shall not be cancelled or suspended if the licensee proves to the satisfaction of the licensing authority,

- (a) that the act or omission was not instigated or connived at by him or, if the licensee is a firm or company, by a partner of the firm or a director of the company, or
- (b) that he or his agent or employee had not been guilty of similar act or omission within twelve months before the date on which the act or omission in question took place, or where his agent or employee had been guilty of such act or omission, the licensee had not or could not reasonably have had, knowledge of that previous act or omission, or
- (c) if the act or omission was a continuing act or omission, that he had not or could not reasonably have had knowledge of that previous act or omission, or
- (d) that he had used due diligence to ensure that the conditions of the licence or the provisions of the Act or the Rules thereunder were observed."

[No. F.1-6/67-D.]

S. N. VARMA, Dy. Secy..

(Department of Health)

New Delhi, the 5th June 1968

**S.O. 2005.**—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after-

consulting the Medical Council of India hereby makes the following amendments in the First Schedule to the said Act, namely:—

In the said Schedule—

(i) in the entries relating to the University of Lucknow, after the entry "Diploma in the Child Health.. D.C.H., Lucknow", the following entry shall be inserted, namely:—  
 "Doctor of Medicine . . . M. D. (Radiology), Lucknow". (Radiology).

(ii) in the entries relating to the University of Madras, after the entry "Master of Surgery.. M.S., Mad.", the following entries shall be inserted, namely:—  
 "Doctor of Medicine . . . M. D. (Genl. Med). Mad.  
 (General Medicine)  
 Doctor of Medicine . . . M. D. (Obst.) Mad.  
 (Obstetrics)  
 Master of Surgery . . . M. S. (Gynae.), Mad.  
 (Gynaecology)  
 Doctor of Medicine . . . M.D. (Path. main and Bact. Subsidiary),  
 (Pathology main/and Bacteriology Mad.,  
 Subsidiary).  
 Doctor of Medicine . . . M. D. (Bact main and Path-Subsidiary),  
 (Bacteriology main and Pathology Mad.  
 subsidiary).  
 Doctor of Medicine . . . M. D. (Venereology), Mad.  
 (Venereology)  
 Doctor of Medicine . . . M. D. (Anaesths.), Mad.  
 (Anaesthesia)  
 Doctor of Medicine . . . M.D. (Paed.), Mad.  
 (Paediatrics)  
 Doctor of Medicne . . . M.D. (Radiology), Mad.  
 (Radiology)}  
 Master of Surgery . . . M.S. (Genl. Surg.), Mad.  
 (General Surgery)  
 Master of Surgery . . . M. S. (Oto-rhino-Laryngology), Mad.  
 (Oto-rhino-Laryngology)  
 Master of Surgery . . . M. S. (Orth.), Mad.  
 (Orthopaedics)  
 Diploma in Gynaecology and Obstetrics D. G. O., Mad.  
 Diploma in Laryngology & Otology . D. L. O. Mad.  
 Diploma in Orthopaedics . Dip. Orth., Mad.  
 Diploma in Venereology . D. V., Mad.  
 Diploma in Dermatology . Dip. Derma., Mad.  
 Diploma in Child Health . D.C.H., Mad.  
 Diploma in Anacsthesia . D. A. Mad.  
 Diploma in Medical Radiology-therapy D.M.R.T., Mad.  
 Diploma in Medical Radiology-diagnosis. D. M. R .D., Mad.

(iii) in the entries relating to the University of Delhi after the entry "Diploma in Anaesthesia.. D.A., Delhi", the following entries shall be inserted, namely:—  
 "Diploma in Gynaecology and Obstetrics. D.G.O., Delhi.  
 Master of Science (Medical Bio-chemistry). M. Sc. (Med. Biochemistry), Delhi.  
 Doctor of Medicine . . . M. D. (Bio-chemistry), Delhi.  
 Master of Science . . . M. Sc. (Pharm.), Delhi.  
 (Pharmacology)  
 Diploma in Child Health . . . D. C. H., Delhi.";

(iv) in the entries relating to the University of Nagpur, after the entry "Doctor of Medicine (Preventive and Social Medicine)—M.D. (Preventive and Social Medicine)/Nagpur", the following entries shall be inserted, namely:—

"Doctor of Medicine . . . M. D. (Phy.), Nagpur.  
(Physiology)

Diploma in Ophthalmology . . . D. O., Nagpur";

(v) in the entries relating to the University of Rajasthan, after the entry "Doctor of Medicine (Paediatrics) M.D. (Paed.) Rajasthan", the following entry shall be inserted, namely:—

"Doctor of Medicine . . . M. D. (Social & Preventive Medicine  
(Social and Preventive Medicine) Rajasthan";

(vi) in the entry relating to the Marathwade University, after the existing entry, the following entries shall be inserted, namely:—

"Doctor of Medicine . . . M. D. (Path)., Marathwada.  
(Pathology)

Doctor of Medicine . . . M. D. (Genl. Med.) Marathwada.  
(General Medicine)

Doctor of Medicine . . . M. D. (Obst.) Marathwada";  
(Obstetrics).

(vii) in the entry relating to the Ranchi University after the existing entry, the following entry shall be inserted, namely:—

"Diploma in Psychological Medicine : D. P. M., Ranchi";

(viii) in the entries relating to the Madurai University, after the entry "Diploma in Child Health..D.C.H., Madurai, the following entries shall be inserted, namely:—

"Diploma in Gynaecology and . . D.G.O., Madurai  
Obstetrics

Diploma in Medical Radiology . . D.M.R.D., Madurai";  
diagnosis

(ix) after the entries relating to the Sambalpur University, the following entries shall be inserted, namely:—

"Shivaji University Bachelor of M. B., B.S., Shivaji,  
Medicine and Bachelor of Surgery.

Saurashtra University Bachelor of M.B., B.S., Saurashtra".  
Medicine and Rachelor of Surgery.

[No. F. 18-9/68-MPT.]  
L. K. MURTHY, Under Secy.

### MINISTRY OF PETROLEUM AND CHEMICALS

#### (Department of Petroleum)

New Delhi, the 3rd June 1968

**S.O. 2096.**—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 843 dated 28th February 1968 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (1) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting the Central Government, vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

## SCHEDULE

## AHMEDABAD PROJECT

(for laying pipeline from Well No. 85 to G.G.S. IV)

State : Gujarat	Dist. : Mehsana	Taluka : Kalol		
Village	S. No.	Hector	Are.	P. Are.
Dhamasan	721/3	0	6	07
"	721/2	0	8	69
"	721/1 Cart Track V.P.	0	7	58
"	820/2B	0	13	35
"	820/2A	0	4	95
"	837/2	0	4	95
"	837/1	0	11	63
"	839	0	6	77
"	840	0	2	12

[No. 28(2)/68-IOC(B).]

S.O. 2097.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 844 dated 28th February 1968 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of the section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (1) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting the Central Government, vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

## SCHEDULE

## AHMEDABAD PROJECT

(for laying pipeline from well No. 12 to 87)

State: Gujarat	Dist.: Gandhinagar	Tal.: Gandhinagar		
Village	S. No.	Hector	Are.	P. Are.
Sertha	1073	..	..	..
"	1072/1	0	4	75
"	1072/2	0	4	65
"	1071/1	0	9	61

Village	S. No.	Hector	Arc.	P. Arc.
Sertha	1070/1	0	4	45
"	1070/2	0	4	5
"	1068	0	7	88
"	1067/2/B	0	3	74
"	1027/2	0	1	1
"	1027/1	0	6	87
"	1028/2	0	5	56
"	1028/1	0	3	74
"	1037/1	0	6	27
"	1037/2	0	1	1
"	1036/2	0	2	22

[No. 28(2)/68-IOC(C).]

**S.O. 2098.**—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 845 dated 28th February 1968 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of the section 6 of the said Act, submitted report to the Government;

And whereas the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (1) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting the Central Government, vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

#### SCHEDULE

#### AHMEDABAD PROJECT

(for laying of pipeline from well No. 87 to G.G.S.I.)

State: Gujarat

Dist.: Gandhinagar

Tal.: Gandhinagar

Village	S. No.	Hector	Arc.	P. Arc.
Sertha	1038/2B.	0	2	42
"	1038	0	6	87
"	1038	0	5	76
"	1038/2A	0	2	22
"	1039/1	0	6	67
"	1040	0	13	15
"	Cart Truck	0	2	12
"	751	0	4	15
"	1042	0	1	1
"	750	0	8	59
"	749	0	13	15
"	719	0	61	50

[No. 28(2)/68-IOC(D).]

New Delhi, the 7th June 1968

**S.O. 2099.**—Whereas it appears to the Central Government that it is necessary in the public interest that the transport of Petroleum from Cambay Gas Field, in Gujarat State, to the Dhuvaran Power Station in Gujarat State, Pipelines should be laid by the Oil & Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of user in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the power conferred by Sub-section (1) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Elermpeeco, 4th floor, Sayaji Gunj, Opp., College, Lokmanya Tilak Road, Baroda-5, In the Office of the Gujarat Pipelines Project (Oil & Natural Gas Commission) Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

## SCHEDULE

State:—Gujarat	Dist.—Kaira	Taluka:—Cambay		
Village	S. No.	Hectar	Are.	P. Are.
Patlawadi	41	0	9	II

[No. 31(38)/63-ONG/IOC.]

**S.O. 2100.**—Whereas by a notification of the Government of India in the Ministry of Petroleum and Chemicals S.O. No. 846 dated 1st March 1968 under sub-section (1) of Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the Right of User in the lands specified in the schedule appended to that notification for the purpose of laying pipelines.

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification.

Now, whereas, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification is hereby acquired for laying the pipelines and in exercise of the powers conferred by sub-section (1) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

## SCHEDULE

State: Gujarat	Dist.: Kaira	Tal.: Anand		
Village	S. No.	Hectar	Are.	P. Are.
Jol	816	0	3	78

[No. 31(41)/64-ONG/PROD/IOC.]

CORRIGENDUM

New Delhi, the 5th June 1968

S.O. 2101.—In the schedule to the notification of the Government of India in the Ministry of Petroleum & Chemicals S.O. No. 843 dated 28th February 1968, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 9th March, 1968, at page No. 1351 for S. No. '20/2B' read '820/2B' of village Dhamasan.

[No. 28(2)/68-IOC.]

R. N. CHOPRA, Under Secy.

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 7th June 1968

S.O. 2102.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st July, 1968 as the date on which the Measured Rate System will be introduced in Jalpaiguri Telephone Exchange.

[No. 5/47/68-PHB.]

D. R. BAHL,

Assistant Director General (PHB).

संचार विभाग

(पोस्ट-तार बोर्ड)

नई दिल्ली, 7 जून 1968

एस० ओ० 2103.—स्थायी आवश्यकमसंख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (फ) के अनुसार डाक-तार महानिदेशक ने जलपौरी टेलीफोन केन्द्र में 1-7-68 से प्रमापित दर प्रणाली लागू करने का निष्ठय किया है।

[सं० 5-47/68-पी० एच० बी० ]

डी० आर० बहल,

सहायक महानिदेशक (पी० एच० बी० )

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour & Employment)

New Delhi, the 31st May 1968

S.O. 2104.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to S. C. Rungta Colliery, Post Office Rungta Colliery, District Shahdol (Madhya Pradesh), and their workmen, which was received by the Central Government on the 26th May, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR.

Dated May 22, 1968.

PRESENT:

Sri G. C. Agarwala.—*Presiding Officer.*

CASE REFERENCE NO. CGIT/LC(R) (128) OF 1967

PARTIES:

Employers in relation to M/s. S. C. Rungta Colliery, P.O. Rungta Colliery, District Shahdol (Madhya Pradesh).

Vs.

Their workmen, represented through the General Secretary, Rungta Colliery Mazdoor Sangh, P.O. Rungta Colliery (*via* Burhar) Distt., Shahdol (Madhya Pradesh).

APPEARANCES:

For Employers.—Sri D. N. Pathak, Advocate.

For workmen.—Sri B. P. Sharma, General Secretary of the Union.

INDUSTRY: Coal Mine

DISTRICT: Shahdol M.P.

AWARD

By Notification No. 8/31/67-LRII, dated 16th September 1967, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), Government of India, referred the following matter of dispute as stated in the schedule to the order of reference, to this Tribunal for adjudication:—

*Matter of Dispute.*

"In view of the provisions contained in the Payment of Bonus Act 1965, 21 of 1965, whether the workers of M/s. Rungta Colliery, Burhar (Madhya Pradesh) are entitled for bonus for the years 1964 and 1965".

2. The parties did not file statements of claim within the prescribed period as required by Rule 10B of Industrial Disputes (Central) Rules. When no statements of claim were filed within the prescribed period usual notices were issued to parties. The parties, however, filed their statements of claim on 28th November, 1967, on which date certain issues were framed which need not be reproduced as the parties have filed a compromise petition, terms of which are reproduced in the annexure. The petition has been duly verified before the Addl. District Magistrate (Judicial) Shahdol. As the terms of compromise will show the management has agreed to pay minimum statutory bonus for the years in question without prejudice to the stand that the Bonus Act is not applicable to them, their contention having been that the Undertaking was newly set up within the meaning of Section 16 of the Payment of Bonus Act, 1965. The Union after going through the accounts have satisfied itself that there was no profit and available surplus for payment of bonus. The dispute is thus satisfactorily resolved and the compromise is accepted as a fair and just settlement. The reference is answered in terms of compromise agreement.

Sd./- G. C. AGARWALA,  
Presiding Officer.  
22-5-1968.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL JABALPUR:  
IN THE MATTER OF REFERENCE NO. CGIT/LC(R) (128) /67.

BETWEEN:

M/s. S. C. Rungta Colliery, Burhar.—*First Party.*

AND

Their workmen as represented by.

Rungta Colliery Mazdoor Sangh, Burhar.—*Second Party.*

**May it please the Hon'ble Tribunal.**

Both the parties have discussed the case and have reached the following settlement:—

- (1) For the purpose of this reference only, the management, first party, abandons its objection of being a newly set up undertaking within the meaning of Section 16 of the Payment of Bonus Act 1968.
- (2) The Party No. 2 looked into the Profit and Loss Accounts of the management, Party No. 1 and Party No. 2 is satisfied that there is no profit and consequently available surplus for payment of bonus in these years.
- (3) The management Party No. 1 therefore will pay minimum bonus as per Act by 15th May, 1968 for both the years.
- (4) The management Party No. 1 is making this payment without prejudice to its stand that payment of Bonus Act is not applicable to the Coal Mining Industry and that the important provisions of the Payment of Bonus Act are *ultra vires*. It will be open to party No. 1 inspite of this agreement to challenge the Payment of Bonus Act.
- (5) The parties will bear their own cost.

**Prayer**

It is therefore prayed that the Hon'ble Tribunal may be pleased to give an Award in terms of this agreement.

Party No. 1.

For S. C. RUNGTA Colliery.

Sd./- N. M. BHAGERIA,  
Agent

Rungta Colliery,

Dated: 3-5-1968.

Both the parties verified the content of this agreement and signed before me, the parties were identified by Shri S. C. Sharma, Advocate, who is personally known to me.

Party No. 2.

Sd/- B. P. SHARMA,  
Pradhan Mantri,  
Rungta Colliery Mazdoor Sangh, Burhar.  
Reg. No. 36,

P. O. Burhar, Distt. Shahdol (M.P.)

Sd./- N. P. MISHRA,  
A.D.M. (J).  
Shahdol.

**Part of Award.**

Sd./- G. C. AGARWALA,  
Presiding Officer.

Central Govt., Industrial Tribunal-cum-Labour Court,  
Jabalpur.

32-5-1968.

[No. 8/31/67-LRII.]

**S.O. 2105.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, (No. 2) Dhanbad, in the industrial dispute between the Employers in relation to the Kedla Colliery of Messrs Bokara Ramgur Limited, United India Life Building, 22, Chittaranjan Avenue, Calcutta-13 and their workmen, which was received by the Central Government on the 28th May, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.**

**PRESENT:**

Shri Nandagiri Venkata Rao.—*Presiding Officer.*

REFERENCE NO. 252 OF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947.

**PARTIES:**

Employers in relation to Kedla Colliery of Messrs Bokara Ramgur Limited, United India Life Building, 22, Chittaranjan Avenue, Calcutta-13.

AND

Their workmen

**APPEARANCES:**

*For the employers.*—Shri D. Narsingh, Advocate.  
*For the workmen.*—None.

**STATE:** Bihar.**INDUSTRY:** Coal.

Dhanbad, 22nd May, 1968.

**AWARD**

The Central Government, being of opinion that an industrial dispute between the employers in relation to Kedia Colliery of Messrs Bokaro Ramgur Limited, United India Life Building, 22, Chittaranjan Avenue, Calcutta-13 and their workmen by its order No. 2/90/67-LRII dated 9th August, 1967, referred to this Tribunal under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

**SCHEDULE**

"Whether the services of Shri Sundar Singh, Despatch Superintendent, Kedia Colliery, Post Office Ghatotkand, District Hazaribagh, have legally been terminated? If not, to what relief is the workman entitled?"

2. The Tribunal registered the reference as reference No. 252 of 1967. None of the parties filed their statement of demands.

3. On 24th April, 1968 a compromise memo was filed on behalf of the employers, stating that the dispute involved in the reference was amicably settled between the parties in terms of compromise memo. In spite of service of notice no one was present on behalf of the affected workman. The reference does not mention any union of workmen espousing the cause of the affected workmen. Again notices were sent to the affected workman to the address provided in the reference as well as to the address furnished by the affected workman himself through his application dated 22nd December, 1967. It was clearly mentioned in the notice that if the affected workman failed to appear or represented, the compromise memo filed on behalf of the employers would be accepted and an award would be made in terms of the compromise memo. Both the notices were served on the affected workmen as seen by the postal acknowledgments. There was no explanation for the affected workman for not appearing. The terms of compromise appeared to me as favourable and beneficial to the affected workman. Hence, the compromise is accepted and the award is made in terms of the compromise and submitted under section 15 of the Industrial Disputes Act, 1947. The compromise memo is annexed herewith and is made part of the award.

Sd/- N. VENKATA RAO,  
 Presiding Officer,

Central Government Industrial Tribunal  
 (No. 2) at Dhanbad.

**APPENDIX I****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
 (NO. 2) AT DHANBAD****REFERENCE No. 252 OF 1967**

Employers in relation to Kedia Colliery of Messrs Bokaro Ramgur Limited, United India Life Building, 22, Chittaranjan Avenue, Calcutta-13.

AND  
 Their Workmen

*List of Documents Admitted in Evidence for the Employers*

Distinguishing mark or number	Description of document & date	Date of admission	Whether admitted or on proof	Proved by
Nil.	Nil.	Nil.	Nil.	Nil.

*List of Documents admitted in Evidence for the Workmen*

Distinguishing mark or number	Description of document & admission date	Date of admission	Whether admitted or on proof	Proved by
Nil	Nil	Nil	Nil	Nil

(Sd.) N. VENKATA RAO,  
Presiding officer

Central Government Industrial  
Tribunal (No. 2) at Dhanbad.

## APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(NO. 2) AT DHANBAD

REFERENCE No. 252 OF 1967

Employers in relation to Kedla Colliery of Messrs. Bokaro Ramgar Limited, United India Life Building, 22, Chittaranjan Avenue, Calcutta-13.

AND

Their workmen

*List of Witness Examined for the Employers*

No. of witness	Name of witness	Date of examination
Nil	Nil	Nil

*List of witness examined for the Workmen*

No. of witness	Name of witness	Date of examination
Nil	Nil	Nil.

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial  
Tribunal (No. 2) at Dhanbad

## BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

REFERENCE No. 252 of 1967

Employers in relation to Kedla Colliery.

AND

Shri Sundar Singh an Ex-workman of the Colliery.

*Joint petition of Settlement*

The employers aforesaid and Shri Sundar Singh, the workman concerned respectfully beg to submit as under:—

1. That the parties have amicably settled the dispute involved in the present reference on the terms hereinafter stated.
2. That the employers have agreed to pay and have already paid to the workman concerned and the workman also has agreed to accept and has actually received from them at Hazaribagh on 29th January, 1968, the sum of Rs. 1,250 (Rupees One thousand two-hundred and fifty) only in full and final settlement of all his claims against the employers in respect of his services in the Kedla Colliery.
3. That the workman has accordingly issued a stamped receipt in token of having received the said sum of money from the employers. A signed true copy of the said stamped receipt is enclosed herewith and marked Annexure 'A'.
4. That the workmen hereby reiterate his declaration made in the enclosed receipt that he has no other claims against the management in respect of his service in the Kedla Colliery and that there is no subsisting dispute between him and the management.
5. Parties shall bear their own costs of proceedings.
6. It is prayed that the Tribunal may be pleased to give its award in terms aforesaid.

Sd./- Illegible.

29-1-1968.

Manager,

Pashupatinath Enterprises:

For employers:

Sd./- SUNDAR SINGH,  
Workman concerned.

29-1-1968.

**TRUE COPY**

**ANNEXURE "A"—PART 3.**

**Receipt**

I, Sundar Singh, the workman concerned in the proceeding now pending before the Central Government Industrial Tribunal No. 2, Dhanbad initiated by the Central Government's Notification No. 2/90/67-LRII of 19th August, 1967, hereby declare that in full and final settlement of all my claims against the management concerned, I have received to-day from the management of the Kedla Colliery, the sum of Rs. 1,250 (Rupees One Thousand two hundred and Fifty) only, I have given this receipt to the management in token of the receipt of the said sum. I further declare that I have no other claim whatsoever against the management of the Kedla Colliery for my services rendered in the said Colliery and in respect of the dispute referred to the said Tribunal under the Central Government's aforesaid notification. I also undertake to make a petition to the said Tribunal jointly with the management of the Kedla Colliery praying that the Tribunal may be pleased not to proceed with the reference and to give its award declaring that the dispute has been amicably settled between the parties and that therefore, there is no subsisting dispute for adjudication.

Sd./- SUNDER SINGH,

29-1-1968.

PLACE: Hazaribagh.

Dated: 29-1-1968.

Signed by Sri Sundar Singh in my presence after I paid him the money.

Sd./- S. B. SINGH,

29-1-1968.

Manager,

Pashupatinath Enterprises, for Management of Kedla Colliery, Hazaribagh, dated.....

[No. 2/90/67-LR.II.]

**S.O. 2106.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Bhagaband Colliery, Post Office Bhagaband, District Dhanbad and their workmen, which was received by the Central Government on the 28th May, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

**PRESENT:**

Sri Nandagiri Venkata Rao, Presiding Officer,

REFERENCE NO. 122 OF 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

**PARTIES:**

Employers in relation to the Bhagaband Colliery, Post Office Bhagaband, District Dhanbad,

AND

Their workmen.

**Appearances:**

For the Employers—Shri A. M. Joshi, Labour Adviser.

For the workmen—Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh.

STATE: Bihar

INDUSTRY: Coal

Dhanbad 22nd May, 1968.

**AWARD**

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Bhagaband colliery, Post Office Bhagaband, District Dhanbad, and their workmen by its Order No. 2/26//66-LRII, dated 9th March, 1966, referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947, for adjudication the dispute in respect of the matters specified in the scheme annexed thereto. The schedule is extracted below:

**SCHEDULE**

“1. Whether the management of the Bhagaband Colliery was justified in terminating the services of the following twenty workmen with effect from the dates shown against each?

Sl. No.	Name of the workmen with designation.	Date of termination of service.
1	2	3
1.	Shri Taki Mea, Miner . . . . .	27-11-65
2.	Shri Ramachin Chamar, Trammer . . . . .	27-12-65
3.	Shri Sukhandan Bhar, Trammer . . . . .	27-12-65
4.	Shri Babar Ali Mia, S. P. Mazdoor. . . . .	23-12-65
5.	Shri Makhan Chamar, Trammer . . . . .	23-12-65
6.	Shri Ramrup Bhar, Miner . . . . .	14-12-65
7.	Shri Hargun Bhar, Miner . . . . .	10-12-65
8.	Shri Uttim Singh, Miner . . . . .	9-12-65
9.	Shri Gajjan Chamar, Miner . . . . .	8-12-65
10.	Shri Ramkeswar Koi, Miner . . . . .	8-12-65
11.	Shri Liladhar Gope, Trammer . . . . .	21-12-65
12.	Shri Santoo Garari, Trammer . . . . .	13-12-65
13.	Shri Shyama Singh, Driller . . . . .	13-12-65
14.	Shri Barfidhar Dube, Lamp Cabin Mazdoor . . . . .	29-12-65
15.	Shri Rama Bilaspur, S.P. Mazdoor . . . . .	20-12-65

1	2	3
16.	Shri Amrit Nunia, S. P. Mazdoor.	20-12-65
17.	Shri Patiram Lohan, Miner	20-12-65
18.	Shri Sukhu Mallik, Rejection Trammer	25-11-65
19.	Shri Tulan Garari, Prop. Mazdoor.	25-11-65
20.	Shri Somar Meah, Miner	2-12-65

2. If not, to what relief are the workmen entitled?"

2. The Central Government Industrial Tribunal, Dhanbad, registered the reference as reference No. 47 of 1966 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceeding was transferred to this Tribunal, by the Central Government by its Order No. 8/25/67-LRII, dated 8th May, 1967 under Section 33B(1) of the Industrial Disputes Act 1947. Consequently, the reference is renumbered in the file of this Tribunal as reference No. 122 of 1967.

3. On 10th May, 1968, parties filed a compromise memo stating that the dispute involved in the reference had been settled to their entire satisfaction in terms mentioned in the compromise memo. The memo is duly verified. Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh, representing the workmen has admitted that the affected workmen mentioned at Serial Nos. 2, 3, 4, 5, 11, 12, 14, 15, 16, 18 and 19 (11 in all) have already drawn the *ex-gratia* amount mentioned in the compromise memo and that the employers have undertaken to pay to the remaining affected workmen their *ex-gratia* amounts mentioned in the memo against their names within a month. I consider the compromise as beneficial to the affected workmen as well as to the workmen. Hence, the compromise memo is accepted and the award is made and submitted under Section 15 of the Industrial Disputes Act, 1947 in terms of the compromise. The compromise memo is annexed herewith and made part of the award.

Sd./- VENKATA RAO,

Presiding Officer,  
Central Government Industrial Tribunal,  
(No. 2) at Dhanbad.

#### APPENDIX I

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

REFERENCE NO. 122 OF 1967

Employers in relation to the Bhagaband Colliery, Post Office Bhagaband, District Dhanbad

AND

Their workmen

#### *List of Documents Admitted in Evidence for the Employers*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by	Remarks
Nil	Nil	Nil	Nil	Nil	il

*List of Documents Admitted in Evidence for the Workmen*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by	Remarks
Nil	Nil	Nil	Nil	Nil	Nil

Sd./- N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial Tribunal,  
(No. 2) at Dhanbad

## APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(NO. 2) AT DHANBAD

Reference No. 122 of 1967

Employers in relation to the Bhagaband Colliery, Post Office Bhagaband, District Dhanbad

AND

Their workmen

*List of Witness Examined for the Employers*

No. of witness	Name of witness	Date of examination
Nil	Nil	Nil

*List of Witness Examined for the Workmen*

No. of witness	Name of witness	Date of examination
Nil	Nil	Nil

Sd./- N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial Tribunal  
(No. 2), at Dhanbad.

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 122 of 1967

## PARTIES:

Employers in relation to Bhagaband Colliery of Messrs. Borrea Coal Co. Ltd.,  
Post Office Bhagaband, District Dhanbad.

AND

Their workmen represented by the Colliery Mazdoor Sangh, Luby Circular  
Road, Dhanbad.

**Joint Petition of Compromise**

The parties above-named most respectfully beg to submit as under:—

- (1) That the above matter was referred for adjudication vide Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Notification No. 2/26/66-LRII, dated the 9th March, 1966, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 19th March 1966 as S.O. 817 pages 772-773.
- (2) That the said matter is pending before this Hon'ble Tribunal for adjudication and has been fixed for hearing on the 18th May 1968 at Dhanbad.
- (3) That the parties in the meantime have mutually discussed the matter and have arrived at a settlement in terms stated hereunder.

**Terms of Settlement**

- (i) That without prejudice to the respective contention of the parties it is agreed that the ex-gratia amounts sanctioned by the management to the workmen concerned in the dispute as shown against their names below are acceptable to the workmen:

	Rs.
1. Shri Taki Meah, Miner	236.08
2. Shri Ramadhin Chamar, Trammer	396.24
3. Shri Sukhnandan Bhar,	528.32
4. Shri Babar Ali Mia, S. P. Mazdoor	232.44
5. Shri Makhan Chamar, Trammer	528.32
6. Shri Ramrup Bhar, Miner	236.08
7. Shri Hargun Bhar, Miner	236.08
8. Shri Utum Singh, Miner	354.12
9. Shri Gajjan Chamar, Miner	354.12
10. Shri Rameshwar Koiri, Miner (wrongly written as Ramkeshwar Koiri in the order of reference).	118.04
11. Shri Liladhar Gope, Trammer	660.40
12. Shri Santoo Garari, Trammer.	396.24
13. Shri Shyama Singh, Driller	256.36
14. Shri Barfidhar Dubey, Lamp Cabin Maz.	480.48
15. Shri Rama Bilaspur, S. P. Mazdoor.	581.10
16. Shri Amrit Nunia, S.P. Mazdoor	581.10
17. Shri Patiram Lohar, Miner	236.08
18. Shri Sukhu Mallik, Rejection Trammer	528.32
19. Shri Tulan Garari, Prop. Mazdoor.	123.24
20. Shri Somar Meah, Miner	236.08

- (ii) That the workmen mentioned at Serial Nos. 2, 3, 4, 5, 11, 12, 14, 15, 16, 18 and 19 (11 in all) have already drawn the ex-gratia amounts sanctioned for them. The remaining workmen at Serial Nos. 1, 6, 7, 8, 9, 10, 13, 17 and 20 (9 in all) will be paid the said ex-gratia amounts mentioned against their names above within one month of the date of this settlement. Any other legal dues that may be due to these workmen till the date of their discharge will also be paid within this period of one month.

- (iii) That the twenty workmen herein concerned will have no other claim against the management including their reinstatement.

- (iv) That the parties will bear their respective costs of these proceedings.

In the circumstances the parties herein concerned most respectfully beg to pray that this Hon'ble Tribunal may graciously be pleased to accept this compromise and pass an award in terms thereof.

And for this the parties as in duty bound shall ever pray.

For the Workmen.

(Sd.) SHANKAR BOSE,  
Secretary,  
Colliery Mazdoor Sangh.

(Sd.) KALIKA SINGH,  
Secretary,  
Colliery Mazdoor Sangh.  
Branch Bhagaband Colliery.

Dated, the 10th May, 1968

For the Employers.

(Sd.) O. H. SENIOR,  
Chief Mining Engineer,  
M/s. F. W. Heilgers & Co. (P) Ltd.  
Mg. Agents of M/s. Borrea Coal Co. Ltd.  
Owners of Bhagaband Colliery.

(Sd.) A. M. JOSHI,  
Labour Adviser.

[No. 2/26/66-LRII.]

New Delhi, the 3rd June 1968

**S.O. 2107.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2) Dhanbad, in the industrial dispute between the employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of Messrs New Standard Coal Company (Private) Limited 85/86, Stephen House, 4 Dalhousie Square East, Calcutta-1 and Messrs. Madhavji K. Verma and Sons (Private) Limited, New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of the one part and their workmen of the other part which was received by the Central Government on the 25th May, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)  
AT DHANBAD

**PRESENT**

Shri Nandagiri Venkata Rao, Presiding Officer,

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 15 OF 1967

**PARTIES:**

Employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of Messrs New Standard Coal Company (Private) Limited, 85/86, Stephen House, 4, Dalhousie Square East, Calcutta-1 and Messrs Madhavji K. Verma and Sons (Private) Limited, New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, of the one part

AND

Their workmen of the other part.

**APPEARANCES:**

For the employers—None.

For the workmen—Shri Prasanta Burman, Secretary, Khan Mazdoor Congress.

**STATE:** West Bengal.

**INDUSTRY:** Coal.

Dhanbad, 21st May, 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad of Messrs New Standard Coal Company (Private) Limited, 85/86, Stephen House, 4, Dalhousie Square East, Calcutta-1 and Messrs Madhavji K. Verma and Sons (Private) Limited, New Standard Lodna Colliery, Post Office Jharia, District Dhanbad, of the one part and their workmen of the other part, by its order No. 1/22/64/LRII dated 1st February, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

- (1) Whether the workmen of the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad referred to in Annexure 'A' are entitled to be retained in service consequent on the transfer of the colliery management from Messrs New Standard Coal Company (Private) Limited to Messrs Madhavji K. Verma and Sons (Private) Limited? If so, to what relief are the workmen entitled?
- (2) To what relief are the workmen of the New Standard Lodna Colliery referred to in Annexure-'A' entitled in respect of their unpaid dues, if any, for the period prior to the 29th June 1963; and for the transitory period beginning with the 29th June, 1963, and ending with the 6th February, 1964, and if so, from whom?

Annexure 'A' contains names of Shri G. C. Mukherjee, Head Clerk and 300 other workmen."

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 18 of 1965 on its file. Workmen as well as the employers filed their statement of demands. While it was pending before the Central Government Industrial Tribunal Dhanbad the proceeding was transferred to this Tribunal by the Central Government by its order No. 8/25/67-LRII dated 8th May 1967 under Section 33 B(1) of the Industrial Disputes Act 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 15 of 1967.

3. The uncontested facts leading to the reference are in a narrow compass and they may be stated briefly. All the 301 affected workmen mentioned in Annexure 'A' to the schedule of reference were workmen employed in different capacities in New Standard Lodna Colliery (which will be referred to hereafter as the colliery for the sake of convenience). The colliery was owned and possessed by M/s. New Standard Coal Company (P) Ltd. On 29th June, 1963 the Regional Inspector of Mines, by an order under Section 22 of the Mines Act stopped the workings of the colliery because of its unsafe working conditions. On the applications of some of the share-holders of the New Standard Coal Co. (P) Ltd., the Calcutta High Court appointed Shri K. C. Mukherjee as a Special Officer by an order dated 3rd October, 1963 authorising him to consider all steps necessary for bringing the colliery into working order. He was also authorised to immediately call a meeting of the share-holders and ascertain their views over all steps to be taken for the purpose of raising finances for payment of the dues of M/s. New Standard Coal Co. (P) Ltd., particularly those on account of wages of the workers and dues of the Government. He was authorised to negotiate with outsiders to lease the colliery for a certain period of time. M/s Madhavji K. Verma and Sons (P) Ltd., made an offer to run the colliery on lease on certain terms and the offer was accepted by the High Court, and accordingly the Special Officer executed an agreement for the lease on 11th February, 1964, by virtue of which M/s. Madhavji K. Verma and Sons (P) Ltd. was put in possession of the colliery. Again on an application by some of the share-holders, the Calcutta High Court by its order dated 25th August, 1964 instructed M/s. Madhavji K. Verma and Sons (P) Ltd. to hand over possession of the colliery forthwith to the Special Officer and it was done accordingly on the same day. By the order dated 25th August, 1964 the High Court directed the Special Officer to appoint Directors of M/s. Madhavji K. Verma & Sons (P) Ltd. as Managers under him to operate and exploit the colliery and at the same time to apply to all the appropriate authorities, including the Central Government and the State Governments for permission to grant a lease of the colliery to M/s. Madhavji K. Verma & Sons (P) Ltd., in terms of the agreement dated 11th February, 1964. During the period subsequent 11th February, 1964 M/s. Madhavji K. Verma & Sons (P) Ltd., appointed some workmen but not any of the affected workmen. In short, the colliery was owned and possessed by M/s. New Standard Coal Co. (P) Ltd., workings of the colliery were stopped by the Mines Department under Section 22 of the Mines Act from 29th June, 1963 and from 29th June, 1963 no work was done in the colliery except the work to save the colliery from inundation. From 11th February, 1964 M/s. Madhavji K. Verma & Sons (P) Ltd. took possession of the colliery as lessees and tried to restart the work and on 25th August, 1964 M/s. Madhavji K. Verma & Sons (P) Ltd., delivered back possession of the colliery to the Special Officer. Though the High Court directed the Special Officer to appoint the Directors of M/s. Madhavji K. Verma & Sons (P) Ltd. as Managers and to move all the appropriate authorities, including the Central Government and State Government for permission to grant a lease of the colliery to M/s. Madhavji K. Verma & Sons (P) Ltd., it is not known if the Special Officer took the steps and if the appropriate authorities accorded permission to grant the lease of the colliery to M/s. Madhavji K. Verma & Sons (P) Ltd. On behalf of Shri K. C. Mukherjee, Special Officer, New Standard Coal Co. (P) Ltd., a statement dated 19th May, 1965 was received in the Tribunal on 24th May, 1965 and a statement dated 22nd May, 1965 on behalf of M/s. Madhavji K. Verma & Sons (P) Ltd. on 24th May, 1965. Through his statement the Special Officer raised 3 preliminary objections, that the enquiry in respect of the reference could not proceed without the prior permission of the Calcutta High Court, that the dispute involved in the reference was raised during the period when M/s. Madhavji K. Verma & Sons (P) Ltd. were in possession of the colliery, and as such, the Special Officer had no concern with the same and was not a proper party to the reference and that there was no industrial dispute between the Special Officer and the workmen. The only preliminary objection taken on behalf of M/s. Madhavji K. Verma & Sons (P) Ltd. was that they were neither the owners nor the employers of the colliery, and, as such, they were not concerned with the reference. The above preliminary objections were overruled on 23rd January 1968. All the parties were given opportunity to file their documents. By

consent of the workmen Exts. M1 and M2 were marked for the employers on 13th February 1968. On subsequent hearings no one represented the two opposite parties and as such, the case proceeded in accordance with Rule 22 of the Industrial Disputes (Central) Rules, 1957, as though the opposite parties were present or duly represented. On behalf of the workmen 3 witnesses were examined.

4. Till 11th February, 1964 M/s. New Standard Coal Co. (P) Ltd. were the owners of the colliery of which 301 affected workmen were the employees and on 11th February, 1964 the management of the colliery was transferred to M/s. Madhavji K Verma & Sons (P) Ltd. Shri Piasanta Burman, Secretary, Khan Mazdoor Congress, representing the workmen has tried to argue that M/s. Madhavji K. Verma & Sons (P) Ltd., were successors-in-interest in business and as such, were bound to employ the affected workmen. In view of Section 25FF of the Industrial Disputes Act, 1947 inserted by Act 41 of 1956, the contention cannot sustain. The section reads thus:

**"25FF. Compensation to workmen in case of transfer of undertakings—**  
Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of Section 25 F as if the workman had been retrenched;

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

- (a) the service of the workman has not been interrupted by such transfer,
- (b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and
- (c) the new employer is, under the terms of such transfer or otherwise legally liable to pay to the workman, in event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer."

A reading of the section as a whole makes it clear that unless the transfer falls under the proviso, the employees of the transferred concern are entitled to claim compensation against the transferor and they cannot make any claim for re-employment against the transferee of the undertaking. The compensation requires to be computed in terms of Section 25F of the Industrial Disputes Act 1947 as if the workmen have been retrenched. Section 25FF makes a reference to Section 25F for that limited purpose and, therefore, in all cases to which the Section 25FF applies, the only claim which the employees of the transferred concern can legitimately claim is a claim for compensation against their employers. No claim can be made against the transferee of the said concern. Thus, the first part of the reference requires to be answered in negative.

5. The workmen stated that the New Standard Coal Co. (P) Ltd. did not pay them the monthly wages beginning from March 1963 and the wages, bonus from quarters ending 1962 and the wages of the monthly paid workmen fell in arrears from the month of May or last week of April 1963. They also claim their full wages from 29th June, 1963 till the date of their re-instatement in service. But no material is provided regarding their specific claims. Thus, the workmen are entitled to their dues, if any, for the period prior to 11th February, 1964 from M/s. New Standard Coal Co., (P) Ltd., who were the owners of the colliery. This is my answer to the 2nd part of the reference. For calculating the compensation in part (1) of the reference and dues in part (2) of the reference the workmen have to furnish the necessary particulars giving an opportunity to M/s. New Standard Coal Co., (P) Ltd., to reply and the matter can be disposed of by the concerned Central Government Labour Court.

6. I, therefore, hold that the workmen of the New Standard Lodna Colliery, Post Office Jharia, District Dhanbad referred to in Annexure 'A' are not entitled to be retained in service consequent on the transfer of the colliery management from Messrs New Standard Coal Company (Private) Limited to M/s. Madhavji K. Verma and Sons (Private) Limited and as such, none of them is entitled to any relief on that account. All of them are entitled to compensation under Section 25FF of the Industrial Disputes Act, 1947 against Messrs New Standard Coal Company (Private) Limited. I further hold that the workmen of the New Standard Lodna Colliery referred to in Annexure 'A' are entitled to their unpaid dues, if any, for the period prior to 29th June, 1963, and for the transitory period beginning from 29th

June 1963 and ending by 6th February, 1964 from Messrs New Standard Coal Co., (P) Ltd., alone. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial Tribunal (No. 2)  
at Dhanbad.

#### APPENDIX I

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

REFERENCE NO. 15 OF 1967

Employers in relation to M/s. New Standard Lodna Colliery and another

Vs.

Their Workmen

#### *List of Documents Admitted in Evidence for Employers*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by	Remarks
1	2	3	4	5	6
EX. M1	Certified copy of order dt. 30-10-1963	13-2-68	By consent		
Ex. M2	Certified copy of order dt. 25-8-64	Do.	Do.		

#### *List of Documents Admitted in Evidence for Workmen*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by	Remarks
1	2	3	4	5	6
Nil	Nil	Nil	Nil	Nil	Nil

Sd./- N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial,  
Tribunal (No. 2), Dhanbad..

## APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) DHANBAD

REFERENCE NO. 122 OF 1967

Employers in relation to M/s New Starlight Lignite Colliery and another

AND

Their Workmen

*List of Witness Examined for the Employers*

No. of witness	Name of witness	Date of examination
Nil	Nil	Nil

*List of Witness Examined for the Workmen*

No. of witness	Name of witness	Date of examination
WW1	Shri Gopal Chandra Mukherjee	24-4-68
WW2	Omеш Prasad	24-4-68
WW3	Ram Krishan Kundu	24-4-68

Sd/- N. VENKATA RAO,  
 Presidg Officer,  
 Central Government Industrial  
 Tribunal (No. 2) at Dhanbad.

[No. 1/22/64-L.R. II].

**S.O. 2108**--In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 2 Dhanbad, in the industrial dispute between the employers in relation to the Hurriladish Colliery of Messrs Equitable Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen, which was received by the Central Government on the 27th May, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao,—Presiding Officer.

In the matter of a reference under Section 10(1)(d) of The Industrial Disputes Act, 1947.

Reference No. 55 of 1967

PARTIES:

Employers in relation to the Hurriladish Colliery of Messrs Equitable Coal Company Limited (Post Office Dishergarh, District Burdwan)

AND

Their workmen

APPEARANCES:

For the workmen.—Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh.

For the employers.—Shri S. S. Mukherjee, Advocate.

STATE: West Bengal.

INDUSTRY: Coal.

Dhanbad, dated the 20th May, 1968

## AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Hurriladiah Colliery of Messrs Equitable Coal Company Limited (Post office Dishergarh, District Burdwan) and their workmen by its order No. 2/19/65-LRII dated 29th June 1965 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

## SCHEDULE

"(1) Whether the management of the Hurriladiah Colliery of Messrs Equitable Coal Company Limited were justified in transferring the following twenty workmen as shown in the table below from the Hurriladiah Colliery to other collieries under them situated in the Raniganj Coal-field area?

Sl. No.	Name of the workmen and his designation	Colliery to which transferred	Date of transfer
1.	Sri Nathu, Timber Mistry	Jamuria No. 5 & 6 pits.	27-7-64
2.	Sri Nabi Mia, Timber Mistry	Do.	Do.
3.	Sri Madhari, Timber Mistry	Do.	Do.
4.	Sri Tekan, Timber Mistry	Do.	Do.
5.	Sri Mukunda Muchi	Ranipur.	Do.
6.	Sri Kisto	Do.	Do.
7.	Sri Gokul Beari	Do.	Do.
8.	Sri Jaheer Mian	Do.	Do.
9.	Sri Akhai Mahato	Do.	Do.
10.	Sri Ch. Habib	Mithani	Do.
11.	Sri Abbas	Do.	Do.
12.	Sri Chhou Mian	Do.	Do.
13.	Sri Ramdhani Mochi	Do.	Do.
14.	Sri Akloo Mochi	Do.	Do.
15.	Sri Rohan	Do.	Do.
16.	Sri Ishwar Singh	Do.	Do.
17.	Sri Chhotanah Dusadh, Trammer	Do.	Do.
18.	Sri Rahman Pump Khalasi	Ranipur.	8-8-64.
19.	Sri Teter, Tyndal Cooly.	Do.	Do.
20.	Sri Dulee Gope, T. Mazdoor.	Jamuria.	Not known.

(2) If not, to what relief are the workmen entitled?

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 112 of 1965 on its file. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceedings was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May 1967 under Section 33B(I) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 55 of 1967. The workmen as well as employers filed their statements of demands.

3. The case of the workmen is that the affected workmen were transferred by the employers from Hurriladiah Colliery to other collieries under them in West Bengal arbitrarily. In the statement of demands filed by them the workers have narrated in detail the facts relating to the transfer and absorption of the affected workmen along with others from Bhutgoria colliery to Hurriladiah colliery owing to the closure of Bhutgoria colliery. According to them Bhutgoria colliery, Hurriladiah colliery and other collieries in West Bengal to which the affected workmen were transferred were under the same employers. On 1st February 1964 the Chief Mining Engineer and the Labour Officer of the employers gave an undertaking in writing incorporating therein certain clear terms in respect of the services and other conditions of the workmen of Bhutgoria colliery. As per the terms the

employers agreed to absorb as many workers as possible from Bhutgoria colliery into Hurriladiah colliery which was expected to start coal raising on or about 1st April 1964, to pay lay off compensation to all others who could not be absorbed in Hurriladiah colliery under them for such time as they could be absorbed and if the employers found any workmen that could not be absorbed in Hurriladiah colliery such workmen would be retrenched on payment of due compensation. The affected workmen could not be absorbed in Hurriladiah colliery. On 8th July 1964 the Colliery Mazdoor Sangh on behalf of the workmen addressed a letter to the Chief Mining Engineer categorically stating therein that these workmen who were unwilling to take a transfer to any other colliery should be paid retrenchment compensation without being pressed for accepting an order of transfer to a colliery other than Hurriladiah colliery. In spite of the above correspondence the employers arbitrarily transferred the affected workmen and several others to collieries in West Bengal and as such the transfer was not justified. The employers in their statement admitted having transferred the affected workmen along with others to several collieries under them from Hurriladiah colliery. They pleaded that the affected workmen were the employees of Hurriladiah colliery and they were transferred in accordance with the Certified Standing Orders to other collieries under the same management and, as such, the history relating to Bhutgoria colliery and the agreement relating to the workmen of Bhutgoria colliery were irrelevant for the present reference. According to them chhatoo Mia and Chhotan Dusadh mentioned respectively at Sl. No. 12 and 17 in the schedule of the reference had resigned and Shri Mukund, Muchi, Sri Kisto, Shil Gokul Beuri, Sri Akhai Mahato and Sri Rahman mentioned respectively at Sl. Nos. 5, 6, 7, 9 & 18 have joined at the places of their transfer. The employers further pleaded that the transfer had to be made for administrative exigencies and in exercising of normal management function due to unforeseen mining difficulties viz., numerous dykes and sill intrusions ad their burning effect on the coal seam adequate coal could not be raised from Hurriladiah colliery. The workmen were represented by Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh and the employers by Shri S. S. Mukherjee, Advocate. By consent of the employers Exts. W1 to W5 were marked for the workmen and by consent of the workmen Exts. M1 to M8 were marked for the employers. On behalf of the employers a witness was examined and Exts. M9 to M48 for employers and Exts. W6 and W7 for workmen were marked. By consent of the workmen the wage sheets for 20 weeks were marked respectively as Exts. M49 to M88 for the employers and by consent of the employers Exts. W2A and W3A were marked for the workmen.

4. The reference itself says that the management of Hurriladiah colliery had transferred the 20 affected workmen from Hurriladiah colliery to other collieries under them situated in the Raniganj coal field area. In para 2 of their statement the employers had pointed out that the affected workmen and several others were transferred under orders dated 20th July 1964, 31st July 1964, 28th August 1964, 1st September 1964 and 4th September 1964. The orders under which the 20 affected workmen were transferred are Exts. M9, M10, M11, M12, M13, M14 and M22. Sl. Nos. 1, 3, 4, 5 mentioned in Exts. M9 are respectively Sl. Nos. 13, 14, 15 and 16 of the reference. Sl. Nos. 1, 2, 3, 4 and 5 of Ext. M10 are respectively Sl. Nos. 5, 6, 7, 8 and 9 of the reference. Sl. Nos. 1, 2 and 1 mentioned in Ext. M11 are respectively Sl. Nos. 10, 11 and 12 of the reference. Sl. No. 5 mentioned in Ext. M12 is Sl. No. 18 of the reference. Sl. No. 1 mentioned in Ext. M13 is Sl. No. 19 of the reference. Sl. No. 3 mentioned in Ext. M14 is Sl. No. 17 of the reference. Sl. Nos. 1, 3, 4, 6 and 12 mentioned in Ext. M22 are respectively Sl. Nos. 1, 2, 3, 4 and 20 of the reference. In Ext. W6 the workmen have referred to 7 transfer orders passed during the period from 20th July 1964 to 4th September 1964. These 7 transfer orders are the same which are referred to above, viz Exts. M9, M10, M11, M12, M13, M14 and M22. All these transfer orders clearly show that the workmen transferred under them were the employees of Hurriladiah colliery and they were transferred to various other collieries under the management of the same employers. Hence, it is an established fact that all the 20 affected workmen were the employees in Hurriladiah colliery and they were transferred to various other collieries under the same employers. Consequently, the affected workmen being previously employees in Bhutgoria colliery and agreements relating to their absorption in Hurriladiah colliery are not relevant for the present enquiry.

5. It is an admitted fact that Bhutgoria colliery, Hurriladiah colliery and collieries to which the affected workmen were transferred belong to the same employers. The complaint of the workmen is that the employers did not honour the terms of the agreement, Ext. W1 dated 17th February 1964. As a matter of fact this is not an agreement signed by both the parties. It is signed only on behalf

of the employers. According to the letter the employers had to absorb as many workmen as possible from Bhutgoria colliery into Hurriladiah colliery and to retrench such of the workmen who could not be absorbed in Hurriladiah colliery after paying them compensation due under law. Ext. M1 is a letter from the General Secretary of Colliery Mazdoor Sangh addressed to the Conciliation Officer (Central) Dhanbad on the same day. This letter states that the management of Bhutgoria colliery had agreed to transfer most of the workmen to Hurriladiah colliery when the workings of the same would be opened and to pay them lay off compensation till they were provided with employment there, that the management could not specify the number of workmen to be retrenched and that the workmen were not satisfied with the arrangements proposed. Shri S. S. Mukherjee, the learned Advocate for the employers has argued that this letter in substance is repudiation of all the terms proposed through the letter, Ext. W1 and as such the workmen could not pin the employers to the terms proposed through it. Ext. W2 is an agreement signed by Shri S. K. Bhattacharya, Labour Adviser, Bhutgoria colliery for the employers and Shri Shankar Bose, Secretary Colliery Mazdoor Sangh for the workmen of Bhutgoria colliery. Para 4 of the agreement is relevant and it states: "The management further undertakes that with effect from 1st April 1964, 18 underground trammers will be posted at Hurriladiah. All other workers will be absorbed at Hurriladiah or other collieries of the company as early as possible but not later than 1st July 1964. The posting of such workers will be done in consultation with the Colliery Mazdoor Sangh". It is manifest that the workmen had agreed to their absorption at Hurriladiah or other collieries of the employers. In view of this it is not open to them to find fault with the employers for absorbing or transferring them to the collieries other than Hurriladiah which are under the same employers. It is true that as per the agreement the posting of such workmen could be done in consultation with the Colliery Mazdoor Sangh. Ext. M26 is a letter dated 3rd July 1964 addressed by the Chief Mining Engineer to the Branch Secretary, Colliery Mazdoor Sangh, Bhutgoria Colliery. Through this letter the Branch Secretary was requested to send the names of 184 surplus workmen of different categories for transfer to other collieries of the employers. It was further stated in the letter that if no such list was received by 8th July 1964 the employers would transfer surplus people to other collieries. Thus, even if the correspondence and alleged settlement between Bhutgoria colliery and its workmen are taken into consideration, I do not find any substance in the case put forth on behalf of the workmen that the workmen originally employed at Bhutgoria colliery or paid retrenchment compensation but could not be transferred to other collieries under the employers.

6. The employers had taken the plea that 5 of the affected workmen mentioned at Sl. Nos. 5, 8, 7, 9 and 18 in the reference had joined their places of transfer and, as such, the reference to the extent of them could not sustain. Ext. M21 is a letter from the Manager of Ranipur colliery to the Chief Mining Engineer dated 10th July 1965. It shows that the 5 affected workmen referred to above had reported for duty at the colliery from the dates mentioned against them in the letter. This letter is proved by MW1 and there is no rebuttal to it. Another plea of the employers was that the affected workmen mentioned at Sl. Nos. 12 and 17 of reference had resigned their jobs. Ext. M44 is a letter of resignation by Chhotu Mia mentioned at Sl. No. 12 in the reference addressed to the Manager, Hurriladiah colliery. It was also attested by a witness. MW1 has proved it. Ext. M19 is a letter from the Manager of Hurriladiah colliery to the Chief Mining Engineer. Through this letter the resignation letter, Ext. M44 was enclosed. Ext. M25 is a letter from the Chief Mining Engineer to the Manager, Hurriladiah colliery informing him that the resignation of the workman was accepted. Ext. M45 is the resignation letter of Chhotan Dusadh mentioned at Sl. No. 17 of the reference addressed to the Manager, Hurriladiah colliery. Ext. M20 is a letter of the Manager to the Chief Mining Engineer enclosing therewith the resignation letter, Ext. M45. Ext. M41 is the letter from the Chief Mining Engineer to the Manager informing him that the resignation of the workman was accepted. These Exts. of the workmen that the wages or conditions of service of the affected workmen are provide by MW1 and there is no rebuttal. I accept that the 5 workmen referred to above had joined their respective places of transfers and the 2 workmen had resigned, as pleaded by the employers. Even otherwise, the transfer of the 20 affected workmen by the employers was justified under clause 26 of the Certified Standing Orders, Ext. M48. The clause says that all workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another under the same management provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice was given of such transfer. It is not a complaint were in any way affected to their disadvantage or that no reasonable notice of

transfer was given to them. For these reasons I find no force in the objections raised on behalf of the workmen.

I, therefore, hold that the management of Hurriladiah Colliery of Messrs Equitable Coal Company Limited were justified in transferring the 20 affected workmen as shown in the table of the schedule annexed to the reference, to other collieries under them situated in the Raniganj coalfield area and, as such, none of them is entitled to any relief. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer,  
Central Government Industrial  
Tribunal (No. 2) at Dhanbad.

#### APPENDIX I

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

REFERENCE NO. 55 OF 1967

Employers in relation to the Hurriladiah Colliery

Vs.

Theirw orkmen.

#### *List of documents admitted in Evidence for Employers*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by	Remarks
1	2	3	4	5	6
Ex.M1	Letter dt. 17-2-64 from the Gen. Secy. Colliery, Mazdoor Sangh addressed to conciliation officer (Central) Dhanbad.	24-2-68	By consent		
Ex.M2	Agreement with Secy. Colliery Mazdoor Sangh with covering letter from the union dt 25-2-64.	Do.		Do.	
Ex.M3	Form A-Closure of Bhulgoria Colliery	Do.		Do.	
Ex.M4	Letter from Secretary Colliery Mazdoor Sangh to conciliation officer Dhanbad dt. 31-8-64	16-3-68		Do.	
Ex.M5	Do dt. 1-9-64	Do.		Do.	
Ex.M6	Do. dt. 19-9-64	Do.		Do.	
Ex.M7	Do. dt. 12-11-64	Do.		Do.	
Ex.M8	Written statement of demand on behalf of the workmen in Ref No. 224 of 1967	Do.		Do.	
Ex.M9	Order dt. 20-7-64 regarding transfer of trams	20-4-68	On proof	MWI	

1	2	3	4	5	6
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Ex.M10	Order dt. 20-7-64 regarding transfer of stone dusting Mazdoors	20-4-68	On proof	MW 1	
Ex.M11	Order dt. 20-7-64 regarding transfer of workers	Do.	Do.	Do.	
Ex.M12	Order dt. 28-8-64 regarding transfer of Pump Khalashies	Do.	Do.	Do.	
Ex. M13	Order dt. 1-9-64 regarding transfer of Tandal coolies	Do.	Do.	Do.	
Ex.M14	Order dt. 4-9-64 regarding transfer of Trammers	Do.	Do.	Do.	
Ex.M15	Order dt. 11-2-65 regarding transfer of Sri C. Acharjee	Do.	Do.	Do.	
Ex.M16	Order dt. 6-4-65 regarding transfer of loaders (Miners)	Do.	Do.	Do.	
Ex.M17	Order dt. 7-6-65 regarding transfer of workmen	Do.	Do.	Do.	
Ex.M18	Letter dt. 15-6-65 regarding transfer of Sri K. Bhadur, Peon	Do.	Do.	Do.	
Ex.M19	Letter dt. 15-6-65 of the Manager Hurriladih colliery to the C.M.E. Dishergarh	Do.	Do.	Do.	
Ex.M20	Letter dt. 30-4-65 of the Manager, Hurriladih colliery to the Aetg., C.M.E. Dishergarh	Do.	Do.	Do.	
Ex.M21	Letter dt. 10-7-65 of the Manager Ranipur colliery to the C.M.E. Dishergarh	Do.	Do.	Do.	
Ex.M22	Order of the C.M.E. dt. 31-7-64	Do.	Do.	Do.	
Ex.M23	Order of the C.M.E. dt. 1-12-64	Do.	Do.	Do.	
Ex.M24	Order of the C.M.E. dt. 14-9-65	Do.	Do.	Do.	
Ex.M25	Letter dt. 9-3-65 of the C.M.E. to the Manager Hurriladih colliery	Do.	Do.	Do.	
Ex.M26	Letter dt. 3-7-64 of the C.M.E. to the Branch Secretary Colliery Mazdoor Sangh, Bhaga	Do.	Do.	Do.	
Ex.M27	Order dt. 12-5-65 of the Aetg. C.M.E.	Do.	Do.	Do.	
Ex.M28	Order dt. 18-5-65 of the Aetg. C.M.E. regarding transfer of loaders	Do.	Do.	Do.	
Ex.M29	Order dt. 22-5-65 of the Aetg. C.M.E. regarding transfer of workmen	Do.	Do.	Do.	
Ex.M30	Order dt. 8/9-6-65 of the Aetg. C.M.E. regarding transfer of loaders	Do.	Do.	Do.	
Ex. M31	Order dt. 11-6-65 of the Aetg. C.M.E. regarding transfer of workers.	Do	Do	Do.	

1	2	3	4	5	6
Ex. M 32	Order dt. 12-6-65 of the Aetg. C.M.E. regarding transfer of workers	20-4-68	On proof	MWI	
Ex. M 33	Order dt. 16-6-65 of the Aetg. C.M.E. regarding transfer of workmen	Do.	Do.	Do.	
Ex. M 34	Order dt. 18/19-6-65 of the Aetg. C.M.E. regarding transfer of workmen	Do.	Do.	Do.	
Ex. M 35	Order dt. 22-6-65 of the Aetg. C.M.E. regarding transfer of Shri K. Singh overman.	Do.	Do.	Do.	
Ex. M 36	Letter dt. 28-6-65 of the Aetg. C.M.E. to the Agent Bhandra.	Do.	Do.	Do.	
Ex. M 37	Order dt. 23-6-65 of the Aetg. C.M.E. regarding transfer of workers.	Do.	Do.	Do.	
Ex. M 38	Order dt. 23-6-65 of the Aetg. C.M.E. regarding transfer of workers.	Do.	Do.	Do.	
Ex. M 39	Order dt. 1-7-65 of the Aetg. C.M.E. regarding transfer of workers.	Do.	Do.	Do.	
Ex. M 40	Order dt. 1-7-65 of the Aetg. C.M.E. regarding transfer of workers	Do.	Do.	Do.	
Ex. M 41	Letter dt. 10/11-5-65 of the Aetg. C.M.E. to the Manager, Hurriladih	Do.	Do.	Do.	
Ex. M 42	Application of Sri Ramprasad and 6 Ors. dt. 12-6-65 to the Agent Hurriladih Colliery	Do.	Do.	Do.	
Ex. M 43	Letter dt. 1-7-65 of the Aetg. C.M.E. to the Agent Banora.	Do.	Do.	Do.	
Ex. M 44	Resignation letter of Sri Chaltumia dt. 8-2-65	Do.	Do.	Do.	
Ex. M 45	Resignation letter of Sri Chotton Paswan.	Do.	Do.	Do.	
Ex. M 46	Notice of Abandonment and closure of the mine dt. 6-2-67	Do.	Do.	Do.	
Ex. M 47	Letter of the Chief Mining Engineer dt. 14-2-64 to the conciliation officer.	Do.	Do.	Do.	
Ex. M 48	Standing orders for the Coal Mining Industry	Do.	Do.	Do.	
Ex. M 49 to M 68	20 wages sheets of the affected workmen and others of Hurriladih Colliery of 1964	Do.	Do.	Do.	

(Sd.) N. VENKATA RAO,

Presiding Officer,  
Central Govt. Industrial Tribunal (No. 2)  
at Dhanbad.

*List of Documents Admitted in Evidence for the Workmen*

Distinguishing mark or number	Description of document and date	Date of admission	Whether admitted by consent or on proof	Proved by
Ext. W 1	Original undertaking of the management dated 17-2-64	24-2-68	By consent	
Ext. W 2	Original settlement between the parties dt. 25-2-64	Do.	Do.	
Ext. W 3	Original letter of the management to the union dated 2-3-1964 ;	Do.	Do.	
Ext. W 4	Original letter of the management to the union dt. 3-7-64	Do.	Do.	
Ext. W 5	Office copy of the letter of the union to the management dt. 8-7-1964.	Do.	Do.	
Ext. W 6	List of documents filed by the employers on 24-2-1968	20-4-1968	On proof	MW 1
Ext. W 7	List of further documents filed by the employers on 1-3-1968	Do.	Do.	
Ext. W 2(a)	Letter No. I(3A)/63-64/7174-78, dt. 27-2-1964 from the General Secretary to the C.M.E.	23-4-1968	By consent.	
Ext. W 3(a)	Letter No. I(3A)/64-66/852-53 dated 23-6-64 from the General Secretary to the C.M.E.	Do.	Do.	

(Sd.) N. VENKATA RAO.  
Presiding Officer,  
Central Government Industrial Tribunal,  
(No. 2) at Dhanbad.

## APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
(No. 2) AT DHANBAD

REFERENCE NO. 55 OF 1967

Employers in relation to the Hurriladih Colliery

Vs.

Their Workmen

*List of witness examined for the employers*

No. of witness	Name of witness	Date of examination
MW 1 . . . . .	Shri S. K. Bhattacharya . . . . .	20-4-1968.

*List of witness examined for the workmen*

No. of witness]	Name of witness]	Date of examination
Nil	Nil	Nil

Sd/- N. VENKATA RAO,  
Presiding Officer,  
Central Government Industrial Tribunal (No. 2) at  
Dhanbad.

[No. 2/19/68-LR.II.]

New Delhi, the 4th June 1968

**S.O. 2109.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the North Bhaggatdih Colliery, Post Office Jharia, District Dhanbad and their workmen, which was received by the Central Government on the 1st June, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)  
AT DHANBAD**

**PRESENT:**

Shri Nandagiri Venkata Rao, Presiding Officer

Reference No. 13 of 1967

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

**PARTIES:**

Employers in relation to the North Bhaggatdih Colliery, Post Office Jharia, District Dhanbad

AND

Their workmen.

**APPEARANCES:**

For the employers.—Shri M. M. Agarwalla, Superintendent.

For the workmen.—Shri Rajballabh Prasad, Secretary, Khan Mazdoor Congress.

**STATE :** Bihar.

**INDUSTRY :** Coal.

Dhanbad, 27th May, 1968/Jyaiystha 6, 2890 Saka

#### AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to North Bhaggatdih Colliery, Post Office Jharia, District Dhanbad and their workmen by its order No. 1/25/68-LR.II, dated 11th January, 1968 and 1/25/68-LR.II, dated 17th November, 1968 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below :

#### SCHEDULE

"Whether the quarry miners of the North Bhaggatdih Colliery are entitled to any extra remuneration for coming on loaded trucks from the working faces to the depot and for unloading coal at the depot, and, if so, at what rate and from what date?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 18 of 1965 on its file. Employers as well as workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII, dated 8th May, 1967 under Section 38-B(1) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as Reference No. 13 of 1967.

3. The case of the workmen is that the concerned workmen are in fact quarry miners of the North Bhaggatdih Colliery (hereinafter referred to as the colliery), that in that capacity they are entitled to get the wages of category V workmen for the works of loading coal as per the Labour Appellate Tribunal Award and that for going on the loaded trucks from the quarry to the depot and for unloading coal at the depot they are entitled to extra remuneration of 0.50 paise per ton. According to them each truck was of the capacity of 5 tons and that the extra remuneration claimed by them should be paid with effect from 1st January, 1957. The employers denied that the concerned workmen were quarry miners or that they were entitled to wages of category V or to any extra remuneration for going on the loaded trucks from the quarry and unloading coal at the depot. They also denied that the trucks were of 5 ton capacity. According to them each of the trucks was of the capacity of 3 tons only. They also took a legal objection to the sustainability of the reference alleging that the Central Government, having considered all the aspects and holding the dispute as not fit for reference to an Industrial Tribunal for adjudication once, had not within its power to make the present reference on no new grounds. The workmen were represented by Shri Raj Ballabh Prasad, Secretary, Khan Mazdoor Congress and the employers by Shri M. M. Agarwalla, Superintendent. By consent of the workmen Exts. M1 to M5 were marked for the employers. On behalf of the workmen 4 witnesses were examined and Exts. W1, W2 and W3 were marked for the workmen and Exts. M6 was marked for the employers. On behalf of the employers 5 witnesses were examined and Exts. M7 to M10 were marked.

4. From the material it emerges that on 2nd August, 1963 the Secretary, Khan Mazdoor Congress, Jharia addressed a letter to the Regional Labour Commissioner (Central), Dhanbad representing approximately 22 workers in the loading and unloading work of trucks at the colliery and raising an industrial dispute claiming that they were to be paid the wages of category V workmen and extra remuneration @ 8 annas per ton for going on the loaded trucks and unloading coal at the depot and for breaking of the blasted coal @ 4 annas per ton. They had also mentioned that the capacity of each of the trucks was 5 tons. Having received the comments from the employers and holding enquiry the Regional Labour Commissioner submitted his failure report on the 16th November 1963, which is Ext. M1. Thereafter there seems to be some correspondence between the Central Government and the parties and on 26th February, 1964 the Central Government addressed letters, Ext. M2 to the parties stating "the Government of India do not consider the dispute fit for reference to an Industrial Tribunal for adjudication because the workmen in question were actually truck loaders and were being paid at par with the wagon loaders as provided for in paragraph 158 of the Labour Appellate Tribunal's decision". Then with reference to the above letter of the Central Government, the Secretary, Khan Mazdoor Congress addressed a letter again to the Central Government to review its decision and to refer the dispute to an Industrial Tribunal for adjudication. The letter is Ext. W2. It was again followed by the Secretary, Khan Mazdoor Congress to the Labour Minister of the Central Government by his letter dated 18th July, 1964, Ext. W3. Then the Central Government by its order No. 1/25/63 LRII, dated 11th January, 1965, being of opinion that an industrial dispute exists between the parties, referred the dispute mentioned in the schedule for adjudication. The schedule was as follows:—

"Whether the workmen of the North Bhaggatdih colliery are entitled to any extra remuneration in view of the system adopted by the management of the said colliery, for unloading coal at the depot, and, if so, at what rate and from what date?"

Subsequently, by the order No 1/25/63/LRII dated 17th November, 1965 the schedule above referred to was substituted by the following:

"Whether the quarry miners of the North Bhaggatdih colliery are entitled to any extra remuneration for coming on loaded trucks from the working faces to the depot and for unloading coal at the depot, and, if so, at what rate and from what date?".

On this material it was argued for the employers that the reference before the Tribunal is bad and requires to be rejected. When the Central Government

arrived at the conclusion that the dispute was not fit for reference to an Industrial Tribunal for adjudication, it had before it the failure report of the Regional Labour Commissioner, Ext. M1, accompanied by the letter of the Secretary, Khan Mazdoor Congress and the comments of the employers on it and from them the Central Government also had concluded that the workmen in question were actually truck loaders and were being paid at par with the wagon loaders, as provided for in paragraph 158 of the Labour Appellate Tribunal's decision. The decision of the Central Government was also communicated to the parties through letters Ext. M2. Subsequent to this, the Central Government made the reference in respect of the same dispute. It is a settled law that once the appropriate Government has exercised its powers under Section 10(1) of the Industrial Disputes Act and made a reference to an Industrial Tribunal, it becomes *functus officio* and has no jurisdiction to subsequently amend, cancel or supersede the reference. Do the same principles apply to a case where the Government once declares that an industrial dispute does not exist in respect of certain demands and thus, the Government becomes *functus officio, qua* these demands, after having once recorded such a finding and after communicating the same to the parties concerned? This question is answered, in affirmative by Punjab High Court in Chandhra Transport Company (Private) Ltd., Vs. State of Punjab and others (1968-1-L.L.J.-456). In this view I cannot reject the objection of the employers to the reference as devoid of substance.

5. Even if the legal objection is ignored, I find little case for the workmen. The workmen have claimed Category V wages for the concerned quarry mines (loaders) in addition to the extra remuneration for their coming on loaded trucks from the working faces and unloading coal at the depot. The Secretary of the Central Khan Mazdoor Congress representing the workmen has claimed further remunerations for cutting the loose coal, breaking big lumps of coal, separating the cut coal pieces into grades, loading into trucks, unloading the trucks at the depot, going on loaded trucks to the depot and coming back to the quarry in the empty trucks. The employers have denied that the concerned workmen were a quarry miners. But, as pointed out by the Supreme Court in Delhi Cloth and General Mills Co. Ltd. Vs. Their workmen (1967-1-L.L.J.-423) the Tribunal cannot widen the scope of the enquiry beyond the terms of reference and parties cannot be allowed to challenge the very basis of the issue set forth in the order of reference. As per the reference the concerned workmen are quarry miners and, as such, no party can be permitted to question the status of the concerned workmen. Further, the only question to be determined is whether the concerned workmen, quarry miners are entitled to any extra remuneration for coming on loaded trucks from the working faces to the depot and for unloading coal at the depot, and, if so, at what rate and from what date. In this view the workmen cannot be permitted to set forth any claim for the concerned workmen, quarry miners other than one for their coming on loaded trucks from the working faces to the depot and for unloading coal at the depot. Adjudication of the Tribunal should be confined only to the above question. I am also not concerned with the question to what category of workmen quarry miners belong. It is an admitted fact that the concerned quarry miners were loading the trucks at the working faces, coming on the loaded trucks and unloading the coal at the depot. According to the workmen the capacity of the trucks was 5 tons, while it was 3 tons as pleaded by the employers. On behalf of the workmen there is no clinching evidence to substantiate their case in this respect. The Secretary of the Central Khan Mazdoor Congress, WW1 concedes that he has not measured the trucks but workmen told him that each truck measured 5 tons. None of the other 3 witnesses of the workmen has spoken a word about the capacity of the trucks. A surveyor of the colliery, MW2 has in his evidence that there are 4 trucks in work in the colliery and that he had measured them and submitted a chart, Ext. M10. According to him and the chart the capacity of each of the 4 trucks is approximately 3 tons. The witness has further pointed out that for the last 30 years the capacity of the trucks remained the same. In the cross-examination the witness has asserted that he personally measured the trucks and denied that the chart was prepared on the information furnished to him by the Manager. There is no rebuttal to this evidence. On this material I have no hesitation to hold that the capacity of each of the 4 trucks was 3 tons and not 5 tons as alleged by the workmen.

6. In the Award of the All India Industrial Tribunal (Colliery Disputes) as amended by the decision of the Labour Appellate Tribunal of India there are categories of truck loaders and wagon loaders. In the Colliery Disputes Arbitration Award, Shri A. Das Gupta has directed in para 6 at page 43 that the truck loading and wagon loading should be paid for at one and the same rate. The

Award of the All India Industrial Tribunal (Colliery Disputes) had awarded 4 annas per ton for loading a wagon of 22 tons as the basic wage. But the Appellate Tribunal of India considered the wage at 4 annas per ton a little low for the work and, consequently directed the wage to be paid at 0 4-6 pies as a basic wage for loading a wagon of 22 tons as per para 158 at page 54 of the decision. This basic wage is fixed only for loading a wagon or a truck. In para 6 at page 43 of his Award Shri A Das Gupta has also observed that in the absence of convincing evidence the question whether the truck loading includes unloading and spreading of ashes cannot be decided and that truck loading shall include unloading and spreading of ashes provided there is such general practice in the claimant industry. In the instant case no evidence is laid on behalf of the employers regarding such general practice in the coal industry. Hence I have to consider now what would be the appropriate remuneration for the concerned workmen for going on the loaded trucks, unloading coal at the depot and coming back to the quarry on the empty trucks. It must be remembered that the wage Rs 0-4 6 per ton for loading a truck is only basic wage. Over and above it the workmen are entitled to Dearness Allowance. The Dearness Allowance as per decision of issue No 1 at page 10 of the Colliery Disputes Arbitration Award cannot be less than 100 per cent when the range of basic wage per month did not exceed Rs 50/. At the rate of Rs 0 4-6 per ton awarded by the Appellate Tribunal a truck load of 3 tons in the instant case fetches a basic wage of Rs 2-10-0 per truck, in other words they have paid Rs 0-15-0 per truck more to added, a total remuneration for loading one truck in the instant case cannot be more than Rs 1 11 0. But, admittedly the employers have paid at the rate of Rs 2-10-0 per truck, in other words they have paid Rs 0-15-0 per truck more to the concerned workmen for going on loaded trucks, unloading the coal at the depot and returning in the empty trucks to the quarry. One of the loaders examined on behalf of the workmen as WW4 has deposed that the depot is about  $\frac{1}{2}$  mile from the quarry. In view of the fact that the awarded remuneration for loading a truck of 3 tons is Rs 0-13 6 basic, I consider that going on the loaded trucks to a distance of  $\frac{1}{2}$  mile unloading the coal and returning on the empty trucks to the quarry, a remuneration of Rs 0-15-0 per truck is more than adequate. For this reason also the claim of the workmen cannot sustain.

I, therefore hold that the quarry miners of North Bhagatdih colliery are not entitled to any remuneration other than the one which they have already received, for coming on loaded trucks from the working faces to the depot and for unloading coal at the depot. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act 1947.

(Sd) N VENKATA RAO,  
Presiding Officer  
Central Government Industrial Tribunal (No. 2) at Dhanbad

#### APPENDIX I

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

REFERENCE NO 13 OF 1967

Employers in relation to the North Bhagatdih Colliery, Jharia \_\_\_\_\_ Employer(s)  
Vs

Their workmen represented by the Krishn Mazdoor Congress, Jharia \_\_\_\_\_ Workmen.

#### List of Documents admitted in Evidence for Employer(s)

Distinguishing mark or number	Description of document and date	Date of admission	Whether proved by consent or on proof	Remarks	
1	2	3	4	5	6
Ex. M1	Failure Report of the conciliation officer, Dhanbad-II along with Management's answer dated 1-II-66	11-I-66	By consent		

I	2	3	4	5	6
Ex. M2	The letter of the Under Secretary to the Govt. of India addressed to the Manager of the Colliery dated 26-2-64.		II-1-66	By consent	
Ex. M3	Failure report of the conciliation officer (C), Dhanbad-II addressed of the Chief Labour Commissioner, New Delhi, dated 23-1-1963.		Do.	Do.	
Ex. M4	Three Form 'B' Registers for the years 1963, 1964 and 1965.		Do.	Do.	
Ex. M5	Five attendance Registers for the years 1963, 1964 and 1965.		Do.	Do.	
Ex. M6	The letter regarding grievances of the workmen by the Gen. Secy., Colliery Mazdoor Sangh to the conciliation officer (C), Dhanbad-II, dated 14-12-62.		18-3-68	On proof	WW1
Ex. M7	Managers letter dt. 1-11-63 to the conciliation officer (Central), Dhanbad-II.	Do.		On proof	MW1
Ex. M8	Grievances of the Workmen of the colliery signed by Shri R. N. Sharma.		Do.	Do.	Do.
Ex. M9	Managers letter dt. 17-1-63 to the conciliation officer (Central), Dhanbad-II.		18-3-68	On proof	MW1
Ex. M10	Calculation of the Trucks	Do.		Do.	MW2

*List of Documents Admitted in Evidence for Workmen.*

I	2	3	4	5	6
Ex. W1	Copy of the Union's letter No. KMC/137/63, dated 2-8-65.	19-3-68	On proof	WW2	
Ex. W2	Copy of the Union's letter to the Ministry of Labour and Employment, New Delhi.	Do.	Do.	Do.	
Ex. W3	Copy of the Union's letter to the Ministry of Labour No. KMC/C/213/64 dated 18-7-64.	Do.	Do.	Do.	

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Govt. Industrial Tribunal. No.(2); Dhanbad.

## APPENDIX II

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)  
AT DHANBAD

REFERENCE NO. 13 OF 1967

Employers in relation to the North Bhagatdih Colliery, Jharia.

Vs.

Their workmen represented by the Khan Mazdoor Congress, Jharia.

*List of Witness Examined for the Employers*

No. of Witness	Name of witness	Date of examination
MW1	Debi Das Chatterjee	19-3-1968
MW2	Kishori Mohan Bhattacharjee	19-3-1968
MW3	G.K. Sharma	20-3-1968
MW4	Sukra Munda	20-3-1968
MW5	Nanda Lal Sinha	20-3-1968

*List of Witness Examined for the Workmen.*

No. of Witness	Name of Witness	Date of examination
WW1	Rajballabh Prasad	18-3-1968
WW2	Gopal Chandra Munshi	18-3-1968
WW3	Jhagro Mahato	19-3-1968
WW4	Dinbandhu Tamriya	19-3-1968

(Sd.) N. VENKATA RAO,  
Presiding Officer,  
Central Govt. Industrial Tribunal (No. 2), Dhanbad.

[No. 1/26/68-LRIL.]

New Delhi, the 6th June 1968

**S.O. 2110.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, (No. 1), Dhanbad, in the industrial dispute between the employers in relation to the management of Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office Kharkharee, District Dhanbad and their workmen, which was received by the Central Government on the 4th June, 1968.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, (No. 1), DHANBAD.

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 75 of 1967

## PARTIES:

Employers in relation to the Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office—Kharkharee, (Dhanbad).

AND  
Their workmen.

## PRESENT:

Shri Kamla Sahai.—Presiding Officer.

**APPEARANCES:**

*For the Employers.*—Shri S. C. Jain, Director.

*For the Workman.*—Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha, Dist., Dhanbad.

**STATE:** Bihar.**INDUSTRY:** Coal.

Dhanbad, dated, the 28th May, 1968.

**AWARD**

By Order No. 2/146/67-LRII dated the 22nd December, 1967, the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) of the Government of India has referred for adjudication to this Tribunal the dispute described in the schedule which is as follows:—

**SCHEDULE**

"Whether the action of the management of Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office Kharkharee, District Dhanbad, in refusing employment to Shri Tipu Sultan, Mining Sirdar with effect from the 8th May, 1967 and subsequently transferring him from Kharkharee Colliery to Babisole Colliery *vide* management's letter dated the 10th May, 1967 was justified? If not, what relief is the workman concerned entitled?"

2. Parties have filed their written statements but, ultimately, they have entered into a compromise. They have filed copies of the compromise petition. This petition has been signed on behalf of the union to which the workman belongs by Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha. On behalf of the management, it has been signed by Shri S. C. Jain, Director of the Bharat Mining Corporation Limited to whom the Kharkharee Colliery belongs.

3. It is clear from the schedule that the dispute relates to the transfer of a workman named Tipu Sultan from Kharkharee Colliery to Babisole with effect from the 10th May, 1967. The workman does not wish to go to Babisole Colliery on transfer. He is prepared to accept that his services may be deemed to have been terminated with effect from the date of transfer i.e., the 10th May, 1967. On the other hand, the employers have agreed to pay him compensation and outstanding legal dues, if any, on the basis that the workman has been retrenched, the payment to be made within two weeks from the date of the settlement. In my opinion, the compromise is reasonable. I accept it. The workman, Tipu Sultan is present in Court. On being asked by me, he says that he has willingly entered into the compromise.

4. In the circumstances mentioned above, the reference is disposed of in terms of the compromise which will form part of the award. Let this award be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) KAMLA SAHAI,  
Presiding Officer.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

REFERENCE NO. 75 OF 1967

**PARTIES:**

EMPLOYERS IN RELATION TO KHARKHAREE COLLIERY OF  
MESSRS. BHARAT MINING CORPORATION LIMITED.

AND

Their workmen.

*Joint Petition of Compromise*

The parties above named beg to submit that the above Reference has been amicably settled between the parties on the following terms:—

*Terms of Settlement*

1. That as Shri Tipu Sultan, the concerned workman is not willing to go to Babisole Colliery on transfer his service shall be deemed to have been terminated with effect from the date of his transfer i.e., from 10th May, 1967.

2. That Shri Tipu Sultan shall be paid compensation as if retrenched on the date of the above termination.

3. That the amount of compensation and outstanding legal dues, if any, shall be paid to the concerned workman within two weeks from the date of this settlement.

4. That the above terms finally resolve all disputes pending for adjudication before the Hon'ble Tribunal.

It is, therefore, humbly prayed that this compromise settlement may kindly be recorded and an Award may be passed in terms thereof.

*For the Employers.*

Sd./- Illegible.

Director

Bharat Mining Corporation  
Limited.

Dated the 28th May, 1968.

*For the Workman.*

Sd./- Illegible

General Secretary,  
Bihar Koyla Mazdoor,  
Sabha.

[No. 2/146/67-LR.II.]

**S.O. 2111.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, No. 1, Dhanbad, in the industrial dispute between the employers in relation to the Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office Kharkharee, District Dhanbad, and their workmen, which was received by the Central Government on the 4th June, 1968.

**CENTRAL GOVERNMENT INDUSERIAL TRIBUNAL-CUM-LABOUR COURT  
No. 1, DHANBAD.**

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

**REFERENCE NO. 57 OF 1967**

**PARTIES:**

Employers in relation to the Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office: Kharkharee, (Dhanbad).

**AND**

Their workmen.

**PRESENT:**

Shri Kamla Sahai.—*Presiding Officer.*

**APPEARANCES:**

*For the Employers.*—Shri S. C. Jain, Director.

*For the Workmen.*—Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha, Dhanbad.

**STATE:** Bihar.

**INDUSTRY:** Coal.

*Dhanbad, dated the 28th May, 1968.*

**AWARD**

The Central Government has, by its Order No. 2/122/67-LRII dated the 18th November, 1967, made this reference for adjudication to this Tribunal. The schedule attached to the reference is as follows:—

**SCHEDULE**

"Whether the action of the management of Kharkharee Colliery of Messrs Bharat Mining Corporation Limited, Post Office Kharkharee, District Dhanbad in transferring Sarvashri Teklal Gope and Sukdeo Dusadh, Prop. Mazdoors, from Kharkharee Colliery to Babisole Colliery with effect from the 18th April, 1967, was justified? If not, to what relief are the workmen concerned entitled?"

2. The parties have filed their written statements but have, ultimately, come to terms and have filed their compromise petition. It has been signed on behalf of the union to which the workmen belong by Shri Lalit Burman, General Secretary, Bihar Koyla Mazdoor Sabha. On behalf of the employers in relation to the Kharkharee Colliery of M/s. Bharat Mining Corporation Ltd., it has been signed by Shri S. C. Jain, Director.

3. As is clear from the schedule, the dispute between the parties relates to the transfer of S/Shri Teklal Gope and Sukdeo Dusadh, Prop. Mazdoors, from Kharkharee Colliery to Babisole Colliery. The dispute has been compromised in this way that the workmen concerned do not wish to go on transfer to Babisole Colliery but, instead, they are prepared to accept that their services may be deemed to have been terminated with effect from the date of the transfer i.e., the 18th April 1967. The employers have on the other hand, agreed to pay them compensation as if they had been retrenched from that date. The compensation as well as legal dues, if any of the workmen are to be paid to them within two weeks from the date of the settlement. In my opinion, the settlement is reasonable. I, therefore, accept it. Teklal Gope is present. On being asked by me, he says that he has willingly entered into the compromise.

4. Let the reference be disposed of in terms of the compromise which will form part of the award. This award may be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

Sd./- KAMLA SAHAI,  
Presiding Officer,  
Central Government Industrial Tribunal,  
Dhanbad.

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.**

REFERENCE No. 57 of 1967.

The Employers in relation to Kharkharee Colliery of M/s. Bharat Mining Corporation Ltd.

AND

Their Workmen.

The parties above named beg to submit that the above Reference has been amicably settled between the Parties on the following terms.

1. That as Sarvashri Teklal Gope and Sukdeo Dusad are not willing to go to Babisole on transfer their services will be deemed to have been terminated with effect from the date of transfer i.e., 18th April, 1967.
2. That the above workmen will be paid compensation as if retrenched on the date of above termination.
3. That the above compensation and legal dues, if any will be paid to the workmen concerned within two weeks from the date of this settlement.
4. That the above terms finally resolves all disputes pending in adjudication before this Hon'ble Tribunal.

It is therefore humbly prayed that this compromise may kindly be recorded and an Award passed in terms thereof.

*For Workmen.*

Sd./- LALIT BURMAN,  
General Secretary,  
Bihar Koyla Mazdoor Sabha.

Dated, 28-5-1968.

*For Employers.*

S. C. JAIN,  
Director,  
Bharat Mining Corporation Ltd.,  
Kharkharee Colliery.

Dated, 28-5-68.

[No. 2/122/67-LRII.]

New Delhi, the 7th June 1968

**S.O. 2112.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Khas Dharmaband Colliery of Messrs Khas Dharmaband Colliery Company Private Limited, Post Office Malkera, District Dhanbad and their workmen which was received by the Central Government on the 4th June, 1968.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR.**

Dated, the May 23, 1968

**PRESENT:**

Shri G. C. Agarwala—*Presiding Officer.*

CASE REF. NO. CGIT/LC(R) (25)/1967 (JABALPUR)

CASE REF. NO. CGIT/(47)/1964 (DHANBAD)

**PARTIES:**

Employers in relation to Khas Dharmaband Colliery of M/s. Khas Dhanbad Colliery Company Private Limited, Post Office Malkera, Distt. Dhanbad.

*Vs.*

Their workmen represented through the General Secretary, Khan Mazdoor Jharia, Dhanbad.

**APPEARANCES:**

For employers—S/Sri S. S. Kapoor, Advocate & A. D. Shukla, Group Personnel Officer.

For Workmen—Sri Prasant Burman, Secretary of the Union.

**INDUSTRY:** Coal Mines

**DISTRICT:** Dhanbad (Bihar).

**AWARD**

The Ministry of Labour and Employment by Notification No. 2/22/64-L.R.II dated 2nd May, 1964, referred the following matter of dispute as stated in the schedule to the order of reference to Central Government Industrial Tribunal, Dhanbad, for adjudication, from where it was transferred to this Tribunal by Notification No. 8/5/67-LRII, dated April, 5, 1967:

**Matter of Dispute**

Whether the action of the management of Khas Dharmaband Colliery Company (Private) Limited, Post Office Malkera in stopping payment of Sardari commission of Shri Panchu Rabidas, Trammer in the said Colliery, was justified? If not to what relief is the workman entitled?

2. The proceedings remained pending before the Dhanbad Tribunal without any progress except that the parties filed their statements of claim in that Tribunal and the case was kept undated. After the case was received by this Tribunal, the parties were required to file rejoinders which was not done and adjournments were taken by one or other of the parties on different dates. The case was even conducted *ex parte* against the employers but before the award could be delivered, the employers put up an appearance and *ex parte* proceedings were set aside. Hearing was ultimately rendered at Dhanbad on 10th May, 1968 when the Union examined two witnesses, namely Sri Prasant Burman, Secretary of the Union, Khan Mazdoor Congress, and the workman concerned, Sri Panchu Ravidas. Two documents were also filed and proved as Ex. W/1 and W/2. The employers filed and proved by affidavit 7 documents, Ex. E/1 to E/7, on the affidavit of Sri B. P. Yadav who was tendered and was cross-examined by the Union.

3. The facts of the case are short and simple. Sri Panchu Ravidas is employed as a Trammer in the Colliery. He was also having sirdari commission for miners, presumably they having been recruited through him and for supervision of their work. According to him, there were 70 miners in his gang. He was getting ₹1/- Anna per tub as his commission. By a notice dated 30th January, 1963, the Manager of the Colliery intimated that those sirdars who did not themselves work and supervise the work of miners of their gang would not be entitled to sirdari

commission. It was further intimated that those who were employed in another capacity also, like Sri Panchu Ravidas, should either remain sirdars of the miners or continue in their respective jobs and cease to be sirdars. Since Sri Panchu Ravidas was a Trammer he preferred to remain a Trammer and applied to the management by an application dated 4th February, 1963 that in his place his son, Sri Ramjiban Rabidas, be appointed as miners sardar (Ex. E/7). The management, therefore, appointed Sri Ramjiban Rabidas as Miners' Sirdar. Sirdari commission was paid to his son for a few months. The management, however, came to know that Sri Ramjiban Rabidas was a minor and therefore by a letter dated 21st June, 1963 (Ex. E/6) Sri Panchu Ravidas was intimated that by false representation he had obtained the appointment of his son. He was directed to get a Certificate within one week that Sri Ramjiban Rabidas was major. When no action was taken the management by a letter dated 29th July, 1963 (Ex. E/3) required Sri Ramjiban Rabidas to appear before the Medical Officer of the dispensary and to furnish proof that he was over 18 years of age. Sri Ramjiban Rabidas it appears presented himself before the Medical Officer of the Colliery dispensary who by a certificate dated 20th August, 1963 (Ex. E/3) intimated that Sri Ramjiban Rabidas was not an adult. Consequently, the management by letter dated 21st August, 1963 (Ex. E/4) terminated the appointment of Sri Ramjiban Rabidas as Miners' Sirdar and abolished his sirdari commission with effect from that date. The miners of his gang were, however, absorbed in Sirkari Gang, i.e. departmental Gang. Sri Panchu Ravidas dissatisfied with this action of the management moved the Union, Khan Mazdoor Congress, which in due course resulted in this reference. It may be mentioned that another Union, Colliery Mazdoor Sangh, which is recognised by the management as a representative Union had entered into an agreement with the management on 7th August, 1963 (Ex. E-2) by reason of which it had been agreed that sirdari commission should be allowed only to those who actually worked and the person earning that commission cannot be allowed to work in another capacity as Trammer. It had been further agreed that no under-age person should be allowed to work as Sirdar.

4. On behalf of the employers, a preliminary objection was raised that Khan Mazdoor Congress was not a representative Union and the dispute was not an industrial dispute. This objection is without substance. The Secretary of the Union, Sri Prasant Burman, examined as W.W. 1 produced the Membership Register of the Union for the year 1963-64. The register reveals that the Union had 501 workers of this Colliery as its members. Sri Panchu Ravidas was also a member and was mentioned at Sl. 428. An extract of the Membership Register shows that he paid subscription in 20th March, 1964 by Receipt No. 6254. Shri Panchu Ravidas field a receipt of previous year dated 2nd January, 1963 (Ex. W/1) which shows that he was a member of the Union in the year 1962-63 also. There is, therefore, no merit in this objection.

5. As to the matter of dispute, the terms of reference are whether the action of the management in stopping payment of sirdari commission of Sri Panchu Ravidas, Trammer, was justified. The scope of the reference is, therefore, restricted to Sri Panchu Ravidas, and not for his son, Sri Ramjiban Rabidas. As far Sri Panchu Ravidas he admittedly was a Trammer and on the notice of the management to exercise option either to remain a Trammer or become a Miners' Sirdar, he himself applied that his son, Sri Ramjiban Rabidas, should be appointed Miners' Sirdar. The management acceded to this request and in fact did appoint Sri Ramjiban Rabidas as Sirdar and gave him commission for a few months till he was declared as under age. The reference does not embrace the question whether the stoppage of Sirdari commission to Sri Ramjiban Rabidas on the ground of minority was justified and need not be gone into. So far as Sri Panchu Ravidas is concerned, the management was justified in stopping the sirdari commission when on his own application and request his son was appointed as Miners' Sirdar.

#### Decision

It is, therefore, held that the action of the management in stopping payment of sirdari commission to Sri Panchu Ravidas, Trammer, was justified. No finding is recorded about the justifiability or otherwise of terminating the sirdari commission of his son, Sri Ramjiban Rabidas, being not covered by the terms of reference. No order for costs.

(Sd.) G. C. AGARWALA,  
Presiding Officer,  
23-5-68.

[No. 2/22/64-LRII.]

**S.O. 2113.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Sayal 'D' Colliery of National Coal Development Corporation Limited, Post Office Sayal, District Hazaribagh and their workmen, which was received by the Central Government on the 4th June, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT DHANBAD**

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 62 of 1967

**PARTIES:**

Employers in relation to the Sayal 'D' Colliery of the National Coal Development Corporation Ltd., P.O. Sayal, Distt. Hazaribagh.

AND

Their Workmen.

**PRESENT:**

Shri Kamla Sahai,—Presiding Officer.

**APPEARANCES:**

For the Employers.—Shri Jagdish Prasad, Advocate.

For the Workmen.—Shri Braj Kishore Prasad, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 26th May, 1968

AWARD

By order No. 2/70/64-LRII dated the 19th June, 1965, the Government of India referred this dispute to the Industrial Tribunal at Dhanbad. The then Presiding Officer of the Tribunal was Shri Raj Kishore Prasad. The reference was numbered as 105 of 1965. By the Ministry's order No. 8/25/67-LRII dated the 16th September, 1967, the same reference was transferred for adjudication to the Industrial Tribunal at Jabalpur where it was numbered as reference No. 135 of 1967. By the Central Government's order No. 8/25/67-LRII dated the 24th November, 1967, the same reference has been retransferred for adjudication to this Tribunal. This time it has been numbered here as Reference No. 62 of 1967. The schedule attached to the reference is as follows:—

**SCHEDULE**

"Whether the services of Shri Ramendra Kumar, Shotfirer, were terminated, by the management of the Sayal 'D' Colliery of the National Coal Development Corporation Limited, for unsatisfactory work during his probationary period and if not, to what relief is the workman entitled?"

2. It appears that Shri Ramendra Kumar himself raised the dispute at a very early stage on the 23rd March, 1964 when he filed a representation, alleging that he was being harrassed by the management. Subsequently, the Secretary, Coal Workers Union, P.O. Bhurkunda, submitted a representation to the Conciliation Officer on the 11th May, 1964, alleging that the services of Shri Ramendra Kumar had been illegally terminated. Conciliation proceedings failed and, ultimately, the reference was made.

3. In the written statement filed on behalf of the workman by the Secretary, Coal Workers Union, Bhurkunda, the case put forward is that he was appointed as a shotfirer with effect from 1st May 1963, that he was to remain on probation for a period of one year from that date, that after working for sometime under other officers he was transferred to the shift of Shri R. N. Singh, Mining Sirdar, towards the end of the year 1963, that he passed his overman's certificate of competency at the examination held on the 29th October, 1963 but the result was published on 20th February 1964; that after that date it was wrong for him to be kept as subordinate to Shri R. N. Singh who was not qualified to hold the post of mining sirdar but the management did not wish to disturb R. N. Singh who happened to be a relation of the Director of Production Shri R. N. Singh, of N.C.D.C. (herein after referred to as the 'Corporation'), that Shri Ramendra Kumar, the concerned

workman, became a member of the Coal Workers Union and started representing the cases of workmen before the management with the result that the management became annoyed, that the management thereafter started harrassing him by issuing six chargesheets within ten days from the 25th February, 1964, which were all issued at the instance of Shri R. N. Singh, the Mining Sirdar, that Shri Ramendra Kumar went on pressing his claim for promotion, that later he was forced to complain to the Conciliation Officer (C), Hazaribagh, that the management acted illegally in terminating his services before the expiry of the period of probation and that the action against him is really one of punishment for his trade union activities, for pressing his claim for promotion and for his making a complaint to the Conciliation Officer (C).

4. The employers in relation to Sayal 'D' Colliery of the Corporation have also filed their written statement. Their case in short is that the management has not been aware of any trade union activity of Shri Ramendra Kumar, that he did not become entitled to automatic promotion simple because he obtained the overman's certificate of competency and terms of his appointment did not get thereby changed, that Shri R. N. Singh is a regular and qualified Mining Sirdar and he joined the service of the Corporation about two years after the Director of production joined its service, that many short-firers senior to Ramendra Kumar are working as such even though they hold the overman's certificate of competency, that several charge-sheets were issued to Shri Ramendra Kumar for his acts of misconduct to which he submitted replies but no disciplinary action was taken on the basis of those charge-sheets because such action would have spolied his career whereas a mere discharge at the end of the period of probation could not act him seriously in the matter of future employment and that the management has terminated Shri Ramendra Kumar's service merely because it came to the conclusion that his service during the probationary period was un-satisfactory.

5. At the hearing, four witnesses have been examined on behalf of the management. They are Ram Naresh Singh, MW1 who was employed in Sayal 'D' Colliery as Mining Sirdar from the year 1959. He was incharge of Nakari incline of Sayal 'D' Colliery. It was under him that Shri Ramendra Kumar had been posted as shotfirer. As appears from the evidence of Shri S. N. Jha, (MW3) the Manager of Nakari Incline of Sayal 'D' Colliery, Shri R. N. Singh was the Mining Sirdar of 20 east section of Nakari Incline which was comprised of 17 east level, 18 east level, 19 east level and 20 cast level which included rises which could be described as deep faces from the other side. Ram Dutt Pandey (MW2) was employed as a shotfirer in the colliery. S. N. Jha (MW3) was, as I have already said, the Manager of Nakari Incline of the colliery. Fulchand Shukla (MW4) was, along with one Janardan Missir, incharge of the magazine in 1964. Two witnesses have been examined on behalf of the union. Ram Jatan Sinha (WW1) is a shot-firer in Sayal 'D' Colliery and Ramendra Kumar himself is WW2.

5. A number of documents have also been filed on behalf of the parties. I may refer to two of them at this stage. Ext. M1, dated the 8th March, 1963 is the letter of Shri Ramendra Kumar's appointment with effect from 1st May, 1963 as a shot-firer at the initial pay of Rs. 150/- on the pay scale of Rs. 130-4-170-EB-5-200. It is clearly stated in this letter that he was to remain on probation for one year. Ext. M20 dated the 28th April, 1964 is a letter of the Deputy Superintendent of collieries (hereinafter referred to as the Deputy Superintendent) whereby the services of Shri Ramendra Kumar were terminated. This was served on Shri Ramendra Kumar on the 1st May, 1964 and he was informed under this letter that he should collect one month's wages in lieu of notice of termination in addition to his earned wages and other dues, if any.

6. Shri Brij Kishore Prasad, Advocate, appeared at a late stage of the case on behalf of the union and one of the points which he has raised was that, under the certified standing orders of the Corporation, probationary period could last only for three months and hence the probationary period of Ramendra Kumar could not last for one year. He has further argued that the workman concerned has been victimised because of his trade union activities. On the other hand, Shri Jagdish Prasad, Advocate, who has appeared on behalf of the Corporation has argued that this reference is not valid because this is a case of individual dispute and not an industrial dispute. He has also argued that the workman has not been punished at all because, in that case, he would have been dismissed from service but his services have been terminated on account of unsatisfactory work-sometime serious lapses during his probationary period. He has also said that even if Ramendra Kumar indulged in trade union activities, there is nothing to show that that came to the knowledge of the management and that it acted for that reason.

7. The points which therefore arise for consideration are:

- (i) Is this a case of individual or industrial dispute?
- (ii) Were Shri Ramendra Kumar's services terminated during the continuance of his probationary period?
- (iii) Is this a case in which Shri Ramendra Kumar has been punished for misconduct or is this a case in which his services can be held to have been terminated on account of unsatisfactory work during his probationary period?
- (iv) Has Shri Ramendra Kumar been victimised for his trade union activities?

**Point No. (i)**

8. It is clear from the conciliation papers that the Secretary of the Coal Workers Union filed a representation on the 11th May, 1964 before the Conciliation Officer (C), raising this particular dispute. The Ministry made the original reference to this Tribunal on the 19th June, 1965. Thus, the union took up the cause of Ramendra Kumar before the reference was made. It has been held in, The Bombay Union of Journalists and others versus the Hindu-A.I.R. 1963 S. C. 318 that a dispute turns into an industrial dispute if the union or a sufficient number of co-workers of the workman in question take up his cause before the reference is made. I, therefore, hold that this is a case of industrial dispute.

**Point (ii)**

9. The workman or the union never pleaded that the letter of termination of Ramendra Kumar's services was issued after the end of his probationary period. It was rather alleged in their written statement that he was appointed on probation for one year. His Advocate, Shri Braj Kishore Prasad, cannot therefore be allowed to advance the argument that the probationary period was only for three months and that it had already come to an end before the services of Ramendra Kumar were terminated. In any case, however, it has been held in a number of cases that if a man is appointed to a permanent post with the condition that he is to remain on probation, he is not automatically confirmed at the end of the probationary period. A specific letter of confirmation has to be issued or otherwise the period of probation must be deemed to continue. I refer in this connection to a decision of a Full Bench of the Allahabad High Court in Chief Conservatory of Forests, Uttar Pradesh, and others versus Lyall (D.A.) reported in 1961 (II) L.L.J. 251, and three decisions of the Supreme Court, one in Sukhbans Singh (S) versus State of Punjab reported in 1963 (I) L.L.J. 671, and another in Express News-papers Ltd., versus Labour Court, Madras, reported in 1964 (1) L.L.J.-9, and the third in the State of Uttar Pradesh versus Akbar Ali Khan A. I. R. 1966 S. C. 1842.

10. It is nobody's case that Ramendra Kumar was confirmed before the date on which the letter of termination of his services was issued. That being so, this objection of Shri Braj Kishore Prasad must be over-ruled. I hold that the letter was issued during the continuance of Ramendra Kumar's probationary period.

**Point No. (iii)**

11. It appears from the union's written statement that an examination for the overman's certificate of competency was held on the 29th October, 1963 and the result was published on the 20th February, 1964. Shri Ramendra Kumar has put it to Ram Naresh Singh, MW1 that he started making complaints against Ramendra Kumar because he failed at the examination whereas Ramendra Kumar passed the same. I will shortly examine whether the complaints made by Ram Naresh Singh were true or false but one thing is quite clear and I wish to mention it at this stage. When Ramendra Kumar found that he had passed an examination at which Ram Naresh Singh had failed, he seems to have felt that he was a better man than Ram Naresh Singh and that he should hold the post of Mining Sirdar which Ram Naresh Singh did. In the written statement filed on his behalf, he has stressed the fact that he became entitled to promotion whereas Shri Ram Naresh Singh was not qualified for the post. As soon as he passed the examination, he started presiding the management for promotion and saying that it was he who should be Mining Sirdar and not Ram Naresh Singh. The Manager (MW3) has, however, stated that Ram Naresh Singh was a qualified Mining Sirdar and that there is no rule under which Ramendra Kumar was entitled to automatic promotion simply because he obtained the overman's certificate of competency. He has also denied the suggestion that the mining sirdar was related to the Director of Production. There is no reason to suppose that he has not told the truth or has concealed any fact. In all these circumstances, it seems that Ramendra Kumar was, from the date of publication of the result, suffering from a sense of grievance

against, Shri Ram Naresh Singh and did not look upon him as being fit for the post of a higher officer.

12. Shri Ramendra Kumar has himself stated in his evidence that no action was taken against him before 23rd February, 1964. Ram Naresh Singh, (MW1) has also said that so far as he remembers, he made no written report against Ramendra Kumar before 23rd February, 1964. The Manager (MW3) says that, even before 24th February, 1964, Ram Naresh Singh used to make some verbal complaints against Ramendra Kumar and he used to give the latter some verbal warnings. It is obvious here that earlier faults were not as serious as those that were alleged to be committed by Ramendra Kumar after 23rd February 1964. There were several written complaints against him after that date.

13. I may now refer to the complaints. Shri Ramendra Kumar was on duty in the third shift on the 24th February, i.e. FROM midnight of the 24/25th upto 8-00 A.M. on the 25th February, at 7-15 A.M. on the 25th February, when the third shift of the 25th February was still continuing, Shri Ram Naresh Singh asked Ramendra Kumar to do his work of shotfiring and blasting in No. 17 East Level. He refused to do the work and went away. The place had been made ready for blasting before Ram Naresh Singh had asked Ramendra Kumar to do the work. Ext. M2 is the report of Ram Naresh Singh (MW1) in this connection. The Manager (MW3) received it on the 25th and then called for an explanation from Ramendra Kumar by a letter (Ext. M3). Ext. M4 is the explanation given by Ramendra Kumar in which he has stated that it was he who was, as shotfirer, responsible for the safety in respect of the entire process and operation before and after blasting, that the instruction of Shri Ram Naresh Singh on the 24th February, 1964 would have been followed but for the fact that conditions for safety as laid down by the Coal Mines Regulation were not existing in 17 E L (W), that a cut operation was going on in 17 E L (E) at the time when Shri Ram Naresh Singh's instruction came and as such blasting could not be conducted in 17 E L (W) which is just opposite to 17 E L (E), and that, further-more, the conditions that were necessary as laid down in some clauses of section 171 of Coal Mines Regulations were not present. MW3 has stated that he personally examined 17 E L (W) on getting the report (Ext. M2) and found that preparations had been made and that it was in order for blasting. He goes on to say that it was not correct to say that there could be no blasting in E L (W) because operations were going on in 17 E L (E). He has said that it was reported later that no operation was going on at 17 E L (E) level at that time. The statement of Ram Naresh Singh (MW1) in this connection also is that it is not true that the ground had not been prepared for blasting. He also denies that blasting was going on in 17 E L (E) with the result that no blasting could be undertaken in 17 E L (W). He has added that Shri Ramendra Kumar was the only shotfirer in his section and that he could not be shotfiring in one part of that section so as to make it dangerous for him to short-fire in another part of that section. In view of the evidence of MW's 1 and MW3, it seems to me that the explanation given by Ramendra Kumar in Ext. M4 is incorrect. In my opinion, he disobeyed Ram Naresh Singh without any good reason.

14. Shri Ram Naresh Singh says that Ramendra Kumar was on duty in the 3rd shift of the 25th February also and that holes were made in 19 E L and 18 east rise for blasting operations but Ramendra Kumar did not fire a shot during his duty hours on that date. He submitted a report (Ext. M5). The Manager received Ext. M5 on the 26th February and issued a letter (Ext. M6) to Ramendra Kumar, calling for his explanation. Ramendra Kumar furnished the explanation (Ext. M8) in which he stated that he was not furnished with shot-firer's tools, that he could not conduct the drilling of the holes and that the holes were drilled in his absence. The Manager as well as Shri Ram Naresh Singh have said that Ramendra Kumar had all the tools and Ram Naresh Singh has said that all the tools that were necessary were one stemming rod, one copper bar for cleaning the holes, one chalk, some paper and a pencil. The Manager sent a reply (Ext. M9) to Ramendra Kumar, saying that the Mining Sirdar was perfectly within his rights to over-rule the shotfirer if he felt that the shotfirer was merely causing obstruction in the way of progress of work. In these circumstances, it seems to me that this allegation against Ramendra Kumar has also been made out and his explanation is not worthy of credence.

15. It appears from the evidence of Ram Naresh Singh that Ramendra Kumar was to be on duty in the third shift of the 26th February, 1964 but he absented himself from duty without leave and without any prior intimation to the Mining Sirdar so that he could not arrange for a substitute. Ext. M10 is the letter by which the Manager (MW3) called for an explanation for his absence on the 26th February from Ramendra Kumar. Ext. M11 is his reply. He has stated therein that he was indisposed from the 25th; that he had filed an application for leave before the Manager in the afternoon of the 25th February, that nothing better

was possible for him to do irrespective of whether the leave was or was not granted and that he was under treatment upto the 27th. In the first place, the explanation itself is faulty because he should have seen that his application for leave was granted before he went away. Secondly, the Manager has stated that he did not receive any application from Ramendra Kumar and I think he is a reliable witness whereas Ramendra Kumar, being deeply interested, is not. Thirdly, he was undoubtedly present in the mine on the night of the 24th and upto the morning of the 25th because his explanation (Ext. M8) relates to an incident of the 3rd shift of the 24th February. Fourthly, the Manager sent a note (Ext. M7) to the Doctor who gave a reply [Ext. M7(a)] This shows that Ramendra Kumar did not report sick but the attended the out-patients' department for medicine on the 25th February. This was no justification for his absence from duty on the 25th February. The absence from duty on that date is, therefore, admitted and cannot be explained away on the ground of illness.

16. It appears that Shri Ramendra Kumar was also absent without permission on 20th February, 1964. That date was a gazette holiday but the Manager says that the mine is open on gazetted holidays and further shows evidence of the fact that Ramendra Kumar himself went into the mine for work on 27th February, 1964 which day was another gazetted holiday. He further says that the mine remains closed on seven days in a year which days are declared before-hand by notice to be paid holidays. According to him, monthly paid staff are also entitled to get nine days more holidays in the year but those nine days are allowed to each worker only on days on which he wants to go on leave and the management agrees to let him go. The Manager says that he asked for an explanation from Ramendra Kumar for his absence on the 29th February by his letter (Ext. M13) and that Ext. M14 is the reply. Ramendra Kumar has stated in Ext. M14 that he did not attend to his duty on the 29th February because it was a gazetted holiday and nobody asked him specifically to work. The Manager than wrote to Ramendra Kumar and drew his attention to the fact that if his plea that he need not attend duty on gazetted holidays were correct, how was it that he attended his duty on the 27th February which was also a gazetted holiday. This letter is Ext. M16. It is thus clear that Ramendra Kumar knew that workmen had to work in the mine on gazetted holidays and the ground for his absence on 29th February, 1964 was a lame excuse.

17. On the 4th March, 1964, Shri Ramendra Kumar was on duty in the second shift. He fired a shot at about 10-30 p.m. but a detonator in one of the holes misfired. He did not put things right as he should have done by treating the misfire nor did he give any information about it to the Mining Sirdar or to his succeeding shot-firer. This has been stated by both MW1 and MW3. The Manager says that, according to the usual rule and mining laws, he should have treated the misfire, should have informed the proper authorities and that, if he had no time, he should have made over charge to the shot-firer who took over charge from him and asked him to treat the misfire. The Mining Sirdar (MW1) discovered the misfire and he reported this to the Manager (MW3). Ram Dutt Pandey (MW2) was on duty in the third shift on the same date. He says that Ramendra Kumar was on duty as shot-firer before him at the 20 E.L. section. He further says that he was informed on behalf of the Manager that there was a misfired detonator in No. 20 east rise. He went there and found it. He took it out and, after conclusion of his duty, he deposited the detonator in the magazine. He asserts also mentioned this fact in the shot-firers' report book (Ext. M23). He asserts that Ramendra Kumar did not give him a report about the misfire. On being cross-examined, he says that he was first informed about the misfire by the Manager's office and thereafter by the Mining Sirdar. In view of the evidence of M.W.S., 2 & 3 there is no doubt that Ramendra Kumar committed a serious default by leaving a misfire without treatment and without any information to the Mining Sirdar or the successor shot-firer.

18. On the same day i.e. the 4th March, 1964, Ramendra Kumar did not obey the orders of the Mining Sirdar, Ram Naresh Singh (MW1) to blast four holes in the floor and side of 17 E.L. (W) because the gallery had joined and the irregularity had to be taken out. Ram Naresh Singh's report is Ext. M12. The Manager called for an explanation by his letter M13(a) and Shri Ramendra Kumar's explanation is Ext. M14(a). He said in the explanation that he was being harrassed by the management and he sent copies of the explanation to the Regional Inspector of Mines, Ramgarh and others. The Manager protested by his letter Ext. M16(a) that Shri Ramendra Kumar was not being harassed and that the management took a serious view of his having endorsed copies of his reply to outside authorities. So far as the allegation made by the Manager in Ext. M13(a) is concerned, the explanation is a denial of the fact that the Mining Sirdar's order was not obeyed. In view of the evidence of MW1 and MW3, it is

difficult to hold that the mining sirdar, MW1 did not order four holes in the floor and side of 17 E.L. to be blasted. It is clear that Ramendra Kumar did not carry out the orders.

19. On the 1st April, 1964, Shri Ramendra Kumar received 33 pounds of explosives. He used 21 pounds and he should have returned 12 pounds to the magazine clerk but he returned only one pound. This has been proved by Fulchand Shukla (MW4). He has produced the Magazine register of issue of explosive, and has proved an entry (Ext. M26) as being in the pen of his fellow clerk, Shri Janardan Missir and the signature of Shri Ramendra Kumar (M26(a)) in token of having received 33 pounds. About 7½ hours later, Shri Ramendra Kumar returned one pounds out of 33 pounds of explosive to the magazine clerk. The entry relating to this return bears the signature of Ramendra Kumar [Ext. M26(c)] in token of having returned one pound. Ext. M25 is Shri Ramendra Kumar's report in this connection. It shows that 33 pounds of explosives were issued to him on 1st April, 1964 and he used 21 pounds. He has written that the quantity of explosive returned was 12 pounds. This clearly at variance with the quantity shown by Ext. M26(c) as the quantity returned. There can be no doubt, therefore, that Shri Ramendra Kumar has not been able to explain the shortage of 11 pounds of explosives. This is a rather serious charge and it has also been established against him.

20. On a consideration of the entire evidence on the point of charges levelled against him by the management at the instance of Ram Naresh Singh, it seems to me that the charges were correct. I do not at all think that they were made by Ram Naresh Singh on account of any grudge against Ramendra Kumar but I rather think that Ramendra Kumar himself became so convinced of his importance by passing the examination that he was not prepared to attach any importance to Ram Naresh Singh or his orders. The result was that he made himself liable for so many acts of omission and commission.

21. The employers could certainly take into consideration that conduct of Shri Ramendra Kumar as outlined above and form the opinion that his services were not satisfactory and he was not fit to be confirmed. It is also true that, as the management has said, Shri Ramendra Kumar's future would have been spoiled if disciplinary action had been taken against him and he had been dismissed from service on the ground that he had been guilty of some acts of misconduct.

22. In the circumstances mentioned above, I hold that punitive action has not been terminated on account of unsatisfactory work during his probationary period.

*Point No. (iv)*

23. Ramendra Kumar has examined himself and he has also examined Ram Jatan Sinha (WW1) in order to prove his trade union activities. Ram Jatan Sinha has stated that previously a workman who worked overtime was paid double his basic wages as overtime wages but, from November, 1963, he started being paid double the basic plus the dearness allowance as overtime wages. He says that the change was caused by reason of the representation of Ramendra Kumar before the management. Ramendra Kumar has himself stated in this connection that he talked to other workmen who were interested in the overtime allowance and called a meeting of such persons. He further says that he was authorised to take a delegation to the Deputy Superintendent and he did so. There was a discussion and, according to him, the Deputy Superintendent himself solved the matter by directing that workmen should get overtime allowance according to the Act at double the basic allowance plus dearness allowance. Ram Jatan Sinha says that he was only a member and did not hold any office on the committee. He also says that the committee did not maintain a resolution book. He also admits that he never went with any delegation which went to the management to represent workmen. In view of these admissions, it is difficult to accept his word as to what happened at any meeting of any alleged delegation with the management.

24. Shri Ram Naresh Singh has stated that employees of the entire Sayal 'D' Colliery including the three inclines held a meeting but he cannot remember the date. He also says that a temporary committee was formed with N. N. Bahadur as the President and Nageshwar Jha as the Vice-President. He says that he does not know if Ramendra Kumar was elected as Joint Secretary. MW2 has also stated that a committee of workmen was formed with N. N. Bahadur and Nageshwar Jha as President and Vice-President. He says that he does not know who is the Joint Secretary and Secretary of the Committee.

25. WW1 and WW2 have stated that Ramendra Kumar (WW2) was elected Joint Secretary but there is no paper to support this allegation. N. N. Bahadur and Nageshwar Jha, who were admittedly office bearers of the Workers' Committee, have not been examined to prove that Ramendra Kumar was also one of the office bearers.

26. Ramendra Kumar (WW1) has stated that, after the question of overtime allowance was solved, representatives of different mines were elected. Jeipath Singh and he were elected as representatives of Nakari Incline. He has filed Ext. W2 as a representation which he filed before the Deputy Superintendent. This is certainly a representation signed by 17 workmen and Ramendra Kumar is the first one to sign it. It is, however, on a plain paper. It purports to have been received by somebody whose signature has not been proved. W3 is a similar paper with the signature of a number of workmen including Ramendra Kumar. Ext. W2 is a notice asking people named therein to assemble at a certain place.

27. Ramendra Kumar has proved Ext. W6 as the reply which he received from the Deputy Superintendent of collieries in connection with the representation (Ext. W2). It is a letter dated the 23rd December, 1963 and it is addressed to the colliery Managers of Nakari and other mines. It deals with the question of overtime allowance but not with the subjects raised in Ext. W2 about the supply of coal, about having street lights put up etc. It is, therefore, difficult to accept that Ext. W2 was made over to the Deputy Superintendent or that Ext. W6 is its reply.

28. There is no register or document which shows that Ramendra Kumar took any active part in order to put forward grievances and claims of workmen.

29. In the circumstances mentioned above, I hold that it has not been established that Shri Ramendra Kumar has been taking part in trade union activities much less that his activities of this kind were known to the management. It is clear, therefore, that this cannot be held to be a case of victimisation of Ramendra Kumar for his trade union activities.

30. In view of the findings recorded above, I answer the reference and hold that the services of Ramendra Kumar, short-firer, were terminated for unsatisfactory work during the probationary period. He is not, therefore, entitled to any relief. This is my award. Let this be submitted to the Central Government under Section 15 of the Industrial Disputes Act.

(Sd.) KAMLA SAHAI,  
Presiding Officer.  
[No. 2/70/64-LRIL.]

### ORDERS

New Delhi, the 4th June 1968

**S.O. 2114.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Lodna Colliery, Post Office Jharia (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of subsection (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 2), Dhanbad, Constituted under section 7A of the said Act.

### SCHEDULE

Whether the management of the Lodna Colliery, Post Office Jharia (Dhanbad) was justified in dismissing the following workmen from the dates noted against each?

Shri Nicholas Pasker, Clerk—20th November, 1967.

Shri V. K. Shukla, Clerk—21st December, 1967.

If not, to what relief are the workmen entitled?

[No. 2/74/68-LRIL.]

New Delhi, the 6th June 1968

**S.O. 2115.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kajora and West Kajora Colliery, Post Office, Kajoragram, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the management of Kajora and West Kajora Colliery, Post Office Kajoragram, District Burdwan was justified in retrenching Shri Gopal Parmanick Attendance Clerk, with effect from the 25th March, 1968. If not, to what relief is the workman entitled?

[No. 6/45/68-LRII.]

**S.O. 2116.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Khas Dharmaband Colliery of Messrs Khas Dharmaband Colliery Company (Private) Limited, Post Office Malkera District Dhanbad and Messrs Industrial Supplies (Private) Limited, F-2 Gillander House, 8 Netaji Subhas Road, Calcutta-7, Raising Contractors at Khas Dharmaband Colliery of the one part and their workmen of the other part in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the transfer of the following workmen from Khas Dharmaband Colliery to Balihari Colliery with effect from the dates shown against their names by the management of Khas Dharmaband Colliery of Messrs Khas Dharmaband Colliery Company (Private) Limited, Post Office Malkera, District Dhanbad and Messrs Industrial Supplies (Private) Limited, F-2 Gillander House, 8 Netaji Subhas Road, Calcutta-1 Raising Contractors at Khas Dharmaband Colliery was justified:—

Sl. No.	Name of the workmen	Designation	Date of transfer
1	Shri Ajab Lal Sharma . . . .	Attendance Clerk	5-9-1967
2	Shri Awadh Kishore Singh . . . .	Overman-incharge	15-12-1967
3	Shri Chotu Sain . . . .	Mining Sirdar	15-12-1967
4	Shri Kalicharan . . . .	Winding Engine Khalasi	27-II-1967
5	Shri Ganesh Mistrv . . . .	Fitter	15-12-1967
6	Shri Budhan Mahali . . . .	Attendance Clerk	15-12-1967
7	Shri Bishun Singh . . . .	Night Guard	12-3-1967

If not, to what relief are the workmen concerned entitled?

2. Whether the action of the management of Khas Dharmaband Colliery of Messrs Khas Dharmaband Colliery Company (Private) Limited, Post Office, Malkera District Dhanbad and Messrs Industrial Supplies (Private) Limited, F-2 Gillander House, 8 Netaji Subhas Road, Calcutta-1, Raising Contractors at Khas Dharmaband

Colliery in dismissing/stopping the following workmen from Company's service/ from duty was justified:—

Sl. No.	Name of the workmen	Designation
1	Shri Rameshwar Choubey	Munshi
2	Shri Sahdeo Singh	Body Searcher
3	Shri Nathuni Pandey	Night Guard
4	Shri Saluddin Sain	Haulage Khalasi
5	Shri Sibu Mahato	Pump Khalasi
6	Shri Deolal Ram	Lamp Checker
7	Smt. Jaitun Bibi	Loading Kamin
8	Shri Moti Singh	Depot Chaprasi/Night Guard
9	Shri Ramdeo Singh	C. C. M. Mazdoor

If not, to what relief are the workmen concerned entitled?

[No. 1/2/68-LRII.]

New Delhi, the 7th June 1968

**S.O.2117.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Ballarpur Colliery of Ballarpur Collieries Company Limited, Nagpur, Post Office Ballarpur, District Chanda (Madhya Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Jabalpur, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the management of the Ballarpur Colliery of Messrs Ballarpur Collieries Company Limited, Nagpur, was justified in retrenching Shri P. B. Gade, Jamindari/Patwari Clerk with effect from the 10th January 1968? If not, to what relief is he entitled?

[No. 3/8/68-LRII.]

BALWANT SINGH, Under Secy.

#### (Department of Labour and Employment)

New Delhi, the 3rd June 1968

**S.O. 2118.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to Messrs Sesa Goa Private Limited and their workmen, which was received by the Central Government on the 25th May, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE NO. CGIT-28 OF 1966

#### PARTIES:

Employers in relation to M/s Sesa Goa Private Ltd.,

AND

their workmen.

Present:

Shri A. T. Zambre, Presiding Officer,

**APPEARANCES:**

*For the employers.*—Shri P. K. Rele. Solicitor. Crawford Bayley & Co.

*For the workmen.*—Shri Madan Phadnis, Advocate.

**STATE:** Goa.**INDUSTRY:** Iron Ore Mining*Dated 16th May 1968***AWARD**

The Central Government in the Ministry of Labour Employment and Rehabilitation (Department of Labour and Employment) has by its Order No. 24/18/66/LRI, dated 12th May, 1966, referred to this Tribunal an industrial dispute between the employers in relation to Messrs. Sesa Goa Private Limited and their workmen in respect of the subject matters specified the following schedule:—

**SCHEDULE**

1. "Whether the management of Messrs. Sesa Goa Private Limited was justified in granting leave without pay to Shri P. V. Mahatme on the 2nd and 3rd August 1965."
2. If not to what relief is the workman entitled?"
3. The employers Messrs. Sesa Goa Private Limited own a workshop for operating their iron ore mine in which the workman Shri P. V. Mahatme was working as a turner. The Goa Mining Labour Welfare Union of which Shri Mahatme was a member has after this reference filed a written statement in which it is alleged that Shri Mahatme turner in the workshop of the company wanted to attend to his brother-in-law who was seriously ill and was to be taken to the hospital. Hence Shri Mahatme on the 2nd August 1965 filled in the company's usual leave application form and applied for casual leave for two days on the 2nd and 3rd August 1965. In the application it was shown in the relevant column that Shri Mahatme had five days' casual leave to his credit. It is alleged that in spite of this circumstance the company did not grant him leave with pay and the management had thus violated the standing orders and denied the workmen his legitimate due. The workman was entitled to the leave and the two days' leave should be sanctioned as paid casual leave and he should be paid wages for these two days. It has been further requested that a clear directive should be issued to the company for the proper observance of the standing orders.
4. After the written statements the reference was adjourned from time to time and the matter was fixed for hearing on 19th April, 1968. But before this date the workman concerned had sent a letter to the Tribunal that he was no longer in the service of Messrs. Sesa Goa Private, Ltd., and he was not interested in the reference. However as the dispute was raised by the Goa Mining Labour Welfare Union its workmen members were the parties to this reference and hence notice was issued to the union and both management Shri Madan Phadnis, Advocate, appearing on behalf of the union submitted that as the workman had left the services of the employers the union did not want to press the reference. Shri Rele, Solicitor, who appeared on behalf of the employers has also confirmed that Shri Mahatme had resigned from service and was no longer in the employ of the company. As the union does not want to press this reference it shall have to be held that the management was justified in granting leave without pay to Shri Mahatme on the 2nd and 3rd August 1965 and he is not entitled to any relief. Hence my award accordingly.

No order as to costs.

(Sd.)— A. T. ZAMBRE,

Presiding Officer,

Central Government Industrial Tribunal, Bombay.

[No. 24/18/66-LRI]

New Delhi, the 4th June 1968

**S.O. 2119.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Allahabad in the industrial dispute between the employers in relation to the Central Bank of India Limited, Lucknow and their workmen, which was received by the Central Government on the 31st May, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) U.P.

Dated: Allahabad, May 27, 1968

PRESENT:

Shri Mithan Lal, Presiding Officer.

ADJUDICATION CASE NO. 6 OF 1967

BETWEEN

Messrs Central Bank of India, Lucknow.

AND

Their workman Raj Bahadur Singh.

APPEARANCES:

For the Employers.—Sri C. L. Chopra, Legal Adviser of the Bank.

For the Workmen.—1. Sri O. P. Nigam, 2. Sri P. N. Tiwari, Authorised Representatives.

INDUSTRY: Bank.

DISTRICT: Lucknow.

AWARD

The Central Government in exercise of powers conferred by Section 7-A and Clause (d) of sub-section 1 of Sec. 10 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) constituted this Tribunal and referred the following industrial dispute for adjudication under notification No. 51/40/67/LRIII, dated 16th September, 1967:—

“Whether the action of the management of the Central Bank of India Ltd., Lucknow in refusing to allow Shri Ran Bahadur Singh, peon in their branch at Gorakhpur to officiate as Jamadar from May 1967, is justified? If not, to what relief is he entitled?”

It is an admitted fact that Ran Bahadur Singh was appointed as a Peon in the Central Bank of India Ltd., on 12th February 1929 and was posted at Calcutta. He continued in service at Calcutta till 1st March, 1942 and then left the service and went away to his house with effect from 2nd March 1942. He was appointed a fresh in Aminabad office of Central Bank, Lucknow with effect from 15th March 1943 as a Peon on a salary of Rs. 12/- per month and has been continuing in service since then (see the statement of parties recorded on paper 12-A). It is also not disputed that Ran Bahadur Singh was transferred from Aminabad office to Gonda in the year 1944. From Gonda he was transferred to Deoria and then to Gorakhpur. For some years past he has now been working in Gorakhpur office. It is also an admitted fact that after his transfer from Lucknow, Ran Bahadur Singh was given chances to officiate as a Jamadar in leave vacancies from time to time, but since May 1967 such officiating chances are being given to Bhagirathi Sharma, Peon. The whole dispute relates to *inter se* seniority of Ran Bahadur Singh and Bhagirathi Sharma.

The case of the workman is that at the time he was appointed in Aminabad office he was given an assurance that his past services will be counted for purposes of seniority and promotion. It was on that basis that he was given officiating chances from time to time. Since 1960 Bhagirathi Sharma has been putting up a claim for seniority and officiating chances for a Jamadar's post. Though his claims were rejected from time to time yet at the intervention of the rival union of U.P. Bank Employees Union the management changed its decision and has now been giving officiating chances to Bhagirathi Sharma. The action of the Bank is said to be unjustified particularly in view of the observations made in para 529 of the Sastry Award.

It has been prayed that the Central Bank of India, Lucknow, be directed to give officiating chances in temporary vacancies to Ran Bahadur Singh.

This dispute was sponsored by the U.P. Bank Employees' Federation. On the application of the U. P. Bank Employees' Union, that union was also impleaded

as a party as the real dispute related to the *inter se* seniority of Ran Bahadur Singh, Member of the sponsoring union and Bhagirathi Sharma member of the U. P. Bank Employees' Union. The claim is thus contested both by the rival union as well as the Bank.

The plea of the Central Bank is that Ran Bahadur Singh resigned from Calcutta office on 2nd March 1942. When he was reappointed in Aminabad office on 15th March 1943 it was totally a fresh appointment. It is alleged that though Ran Bahadur Singh was given officiating chances as a Jamadar from 1956 yet Bhagirathi Sharma being senior in service is being allowed to officiate as a Jamadar from May 1967. It is denied that any assurance was given to Ran Bahadur Singh at the time of reappointment for being given continuity of service by counting his seniority on the basis of his past service.

The rival union took some preliminary pleas in the written statement but at the time the issues were framed Sri P. N. Tiwari did not press for framing any issues on those preliminary pleas. That union has also stressed the point that Bhagirathi Sharma is senior to Ran Bahadur Singh and it was wrong on the part of the Central Bank to have allowed Ran Bahadur to officiate as a Jamadar. It has also been complained that the Bank has been ignoring the representations of Bhagirathi Sharma as well as of the Union and it was only after a grave concern was expressed and agitation was to be started over the attitude of the Bank that the Bank after a mutual discussion agreed to give officiating chances to Bhagirathi Sharma on the basis of seniority.

From the pleadings of the parties the following further issues were framed:—

1. Who of the two, whether Ran Bahadur Singh or Bhagirathi Sharma, was senior or should be treated to be senior for purposes of promotion from the post of Peon to the post of Jamadar?
2. Whether having regard to the seniority of the aforementioned two employees, who of them was entitled to be given an officiating chance of Jamadar in view of the principles laid down by Sastry Award in para 529?
3. Whether Ran Bahadur Singh when he was reappointed on 15th March, 1943 in Aminabad Branch Office, Lucknow was given any assurance that his former service at Calcutta would be taken into consideration for purposes of seniority? What is its effect?
4. Whether Ran Bahadur Singh worked as a Jamadar at Gonda and Deoria during the years 1944 and 1945? If so, whether his mere working as a Jamadar in the said offices entitled him to be made a Jamadar when posted at Gorakhpur office as a Peon?

#### *Findings*

**Issue No. 3.**—The plea of the workmen that at the time of his reappointment in Aminabad office on 15th March, 1943 an assurance was given to him for taking into account his past services at Calcutta is totally false. The workmen has not examined any other witness except himself. His own statement goes to show that the plea has been falsely set up. He stated in examination in chief that though he was getting Rs. 20/- or 21/- p.m. at Calcutta, he was reappointed in Aminabad office in 1943 on a salary of Rs. 12/- per month. The workman did not state anything about any assurance of his past services till a direct leading question was put to the witness by Sri O. P. Nigam, representative of the workman. In his cross examination, the workman stated "In Phagun of 1943 I approached Sri K. C. Puri, Agent, Hazratganj Branch and asked him to provide me with a job as I was in adverse circumstances. A little after I was sent to Aminabad Branch and was given an appointment as a Peon, it was 15th March, 1943". The workman did not state anything about any assurance. The very fact that he asked for a job showed his fresh appointment. The workman has no respect for truth. Because even though he clearly mentioned in his application dated 13th September, 1958 per Ex. E/16 that he had resigned from Calcutta office he tried to make out before the Tribunal that he did not submit any resignation. There could not be any question of any assurance about the past services when there was already a break of more than a year in the service of Ran Bahadur Singh because he left Calcutta in February 1942 and was given a fresh appointment in March 1943. In fact the Agent, Incharge Aminabad office or even Sri K. C. Puri who was incharge of Hazratganj could not have given such an assurance on behalf of the Bank.

It must be held that no assurance of taking into consideration the past services of Ran Bahadur Singh was given nor could it be given when he was given a fresh appointment on 15th March 1943 in Aminabad branch office, Lucknow.

**Issue No. 4.**—There is no satisfactory evidence to show that Ran Bahadur Singh worked as a Jamadar at Gonda or Deoria during the year 1944-45. What appears to be a fact is that till May 1957 whenever a short leave vacancy arose in the office of Jamadar whether at Deoria or Gorakhpur or even at Gonda, Ran Bahadur Singh was given an officiating chance. There is nothing to show that while he was given such chances at Gonda or Deoria there was any other Peon who was senior to him. However, when he was given officiating chances at Gorakhpur, Bhagirathi Sharma claimed seniority as shown by Exs. E/3 or Ex. W/1 dated 9th December, 1958; E/4 or Ex. W/2 dated 26th July, 1960; E/5 dated 14th December, 1961; E/6 or Ex. W/3 dated 18th December, 1961 and Ex. E/9 dated 28th July, 1966. The Union, U. P. Bank Employees' Union also put forward the claim of Bhagirathi Sharma as shown by letters Exs. E/7 dated 15th February, 1962; E/8 dated 21st October, 1963; E/10 dated 29th July, 1960; E/11 dated 16th August, 1960; E/12 dated 14th October, 1965; E/13 dated 27th September, 1966 and E/14 dated 18th March, 1967. There is one other letter sent by the Union and filed by the Bank per Ex. E/34 dated 22nd August, 1966 stressing the claim of Bhagirathi Sharma. The Bank has also filed a list of senior members of subordinate staff per Ex. F/33 which shows that while the seniority of Bhagirathi Sharma is at No. 3 that of Ran Bahadur Singh is at No. 6.

Besides the above there are certain other letters filed by the U. P. Bank Employees' Union per Ex. W/4 to W/6 stressing the claim of Bhagirathi Sharma for appointment as an officiating Jamadar. It also appears from Ex. W/7 dated 2nd September, 1966 that the claim of Bhagirathi Sharma was referred to higher authorities for consideration and orders. Final orders of the Bank were communicated to Bhagirathi Sharma by letter Ex. W/11 dated 12th May, 1967. His claim for seniority was accepted. The decision of the Bank was also communicated to All India Central Banks Federation per Ex. W/11 dated 24th May, 1967.

After the aforementioned decision was taken the All India Central Banks Federation appears to have approached the labour authorities for conciliation. The Assistant Labour Commissioner per Ex. W/11 dated 5th June, 1967, desired the Bank to maintain status quo. Thereafter further conciliation proceedings took place on 11th July, 1967, as shown by Ex. W/12 but the ultimate result was the present reference. There is thus no doubt that Ran Bahadur Singh had officiated as a Jamadar from time to time at Deoria and Gorakhpur whenever a vacancy arose but on the representation both of Bhagirathi Sharma and U. P. Bank Employees' Union, the matter of *inter se* seniority between Ran Bahadur Singh and Bhagirathi Sharma was considered by higher authorities of the Central Bank and ultimately a decision was taken that Bhagirathi Sharma being senior should be given the officiating chance of a Jamadar. This decision appears to be justified both on the ground of seniority as well as suitability.

**Issue Nos. 1 and 2.**—It is evident from Ex. E/33 that Bhagirathi Sharma was appointed as a Peon on 1st March, 1937 while Ran Bahadur Singh was appointed on 15th March, 1943. According to the list of seniority Bhagirathi Sharma is at No. 3 while Ran Bahadur Singh is three places below him. The Bank has also filed the records of service of both Ran Bahadur Singh and Bhagirathi Sharma. Papers Exs. E/18 to E/20 relate to Ran Bahadur Singh while papers Exs. E/21 to E/23 relate to Bhagirathi Sharma. The record of Ran Bahadur Singh is not at all clean. His promotion was stopped for six months in 1964, as shown by Ex. E/18. A warning was also issued to him earlier in 1957, as shown by Ex. E/20. Ran Bahadur Singh had been suspended in 1946 as well, as shown by Ex. E/24. Memos. Exs. E/25 to E/31 are again papers showing that the conduct and behaviour of Ran Bahadur Singh was not satisfactory. It is evident that Ran Bahadur Singh was neither senior to Bhagirathi Sharma nor more suitable for the post of a Jamadar, but somehow the local bank authorities gave him officiating chances which should not have been done. However, giving of officiating chances does not create a right for future promotions. Promotions have to be made on the basis of seniority consistent with merit or suitability as laid down in para. 529 of Sastry award. That paragraph lays down the following principle for promotion:—

"While there is no doubt that seniority in service should be one of the most important factors to be taken into account for the purpose (i.e. promotion with which this para. deals), we are unable to agree that that mere length of service alone irrespective of efficiency, educational qualifications, character and nature of responsibility required in

connection with the vacancies to be filled in should be the sole or even the main criterion for promotion. Promotion is certainly not a matter which could be made automatic and a great deal of discretion by its very nature must rest with the management in this connection. It is not only difficult but very undesirable to lay down any one single principle for the exercise of this discretion."

After laying down the above principle some directions have also been mentioned towards the end of the paragraph in the following words :—

"We further direct that in the case of employees who are not found fit for promotion the decision should be borne out by service records of the employees and that when a person senior in service is superseded it should be for good and cogent reasons..... We recommend that such an employee should have the right to appeal....."

In the instant case Ran Bahadur Singh was not only junior to Bhagirathi Sharma but his record was also not clean. He should not have been given the officiating chances from time to time but it seems the local Agents somehow favoured him. The final decision which has now been taken by the Bank after referring the matter to higher authorities is the only justified decision. It is also in accordance with the principle laid down in the aforementioned paragraph of Sastry award. When Bhagirathi Sharma was making a representations right from 1958 the Bank should have taken the decision earlier instead of prolonging the matter for some 9 years and taking a final decision in the year 1967. That was also after the U.P. Bank Employees Union threatened for agitation.

The claim of Bhagirathi Sharma both on the ground of seniority as well as service record should have been accepted much earlier. The delay on the part of the Bank could only be interpreted to mean that the action of the Bank in giving promotions to Ran Bahadur Singh in preference to Bhagirathi Sharma was not a *bona fide* action.

Para. 529 of the Sastry award came up for interpretation once before the Hon'ble Supreme Court in the dispute between Punjab National Bank and their workman (1961-I-LLJ.10) and thereafter before the Calcutta High Court in the dispute between Eastern Bank Ltd., reported in 1966-I-LLJ.647. What these decisions lay down is that promotion should not be an automatic affair but should be given to deserving persons on the basis of seniority consistent with merit. What is further necessary is that the action of the management in giving promotion should be a *bona fide* one. It has also been observed in these cases that the real judge of the merit and the suitability of an employee is the management and not the Tribunal.

The Supreme Court in another case between Brooke Bond India Pr. Ltd., and their workmen reported in A.I.R. 1966 S.C. 668 laid down certain principles of promotion. It has primarily been considered to be the discretion of the management but in case where it has been found that supersession has been done on the account of *mala fides* or victimisation the Industrial Court may interfere in the matter. In cases where promotion has been given to deserving persons the industrial courts will not interfere unless it comes to the conclusion that the action of the management was *mala fide*.

In the instant case both on the basis of the principles laid down in para. 529 of the Sastry award as well as general principles relating to promotions enunciated by the Supreme Court the Bank was right in accepting the claim of Bhagirathi Sharma who was not only senior but was more suitable for being given the officiating chances as a Jamadar. The earlier action of the Bank in allowing Ran Bahadur to officiate as a Jamadar was neither justified nor could it be said to be *bona fide* particularly having regard to the 8 or 9 years' delay the Bank made in taking a decision on the representation of Bhagirathi Sharma.

**Matter of dispute:** In view of the findings given above the management of Central Bank of India Ltd., Lucknow was justified in refusing to allow Ran Bahadur Singh to officiate as a Jamadar from May 1967.

The workman is not entitled to any relief.

#### Decision

My award is that both on the basis of seniority as well as suitability Bhagirathi Sharma was entitled to get the officiating chances for the post of a Jamadar. The Bank was justified in giving him such a chance from May 1967 and refusing to allow Ran Bahadur Singh to officiate as such.

No order is made as to costs.

27th May, 1968.

Sd./- MIRTHAN LAL,  
Presiding Officer (C).  
[No. 51/40/67-LRIII.]

O. P. TALWAR, Under Secy.

(Department of Labour and Employment)

New Delhi, the 10th June 1968

**S.O. 2120.**—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948) and having regard to the location of the factory in an implemented area, the Central Government hereby exempts the Rajasthan Ground Water Board, Industrial Estate, Jodhpur from the payment of the employer's special contribution leviable under Chapter VA of the said Act for the period upto and including the 29th January, 1969.

[No. F. 6(42)/67-HI.]

New Delhi, the 11th June 1968

**S.O. 2121.**—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th day of June, 1968 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI [except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force] of said Act shall come into force in the following areas in the State of Punjab, namely:—

S. No.	Name of Area	Name of village	Had Bast No.
1.	Nabha (District Patiala)	Nabha	204
2.	Malerkotla (District Sangrur)	Malerkotla	98
3.	Malout Mandi (District Ferozepore)	Donewala	165

[No. F.15(18)/68-HI.]

CORRIGENDUM

New Delhi, the 10th June 1968

**S.O. 2122.**—In the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 3153 dated the 30th August, 1967, appearing on page 3251 of the Gazette of India, Part II, Sub-Section (ii) of Section 3, dated the 9th September, 1967, in paragraph 3, line 3; for 'not' read 'now'.

[No. F.6/21/67-HI.]

DALJIT SINGH, Under Secy.

(Department of Labour and Employment)

ORDER

New Delhi, the 7th June 1968

**S.O. 2123.**—Whereas the employers in relation to the Air India, Bombay, and their workmen represented by the Air Corporation Employees' Union (Air India Region) have jointly applied to the Central Government for reference of an industrial dispute that is apprehended between them to a National Tribunal in respect of the matters set forth in the said application and reproduced in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the persons applying represent the majority of each party;

And whereas the Central Government is of opinion that the said dispute involves questions of national importance and that the dispute should be adjudicated by a National Tribunal;

And whereas the Central Government is of opinion that the said dispute is of such a nature that the Indian Airlines and their workmen are likely to be interested in or affected by such dispute;

Now, therefore in exercise of the powers conferred by section 7B and sub-section (1A), (2) and (5) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes a National Industrial Tribunal at Dhanbad of which Shri Kamla Sahai shall be the Presiding Officer and refers the said dispute to the said National Tribunal for adjudication and includes in the said reference the Indian Airlines and their workmen.

#### SCHEDULE

Whether, having regard to the Award of the National Industrial Tribunal presided over by Shri G. D. Khosla and published in the Gazette of India Extraordinary dated the 21st February, 1966 and the Memorandum of Settlement reached subsequently on the 22nd July, 1966 between the Management of Air-India and the Air Corporations Employees' Union, any readjustment in the quantum of Dearness Allowance is justified and if so, on what basis, to what extent and from what date.

[No. 4/170/67-LRJII.]

G. MISRA, Dy. Secy.

#### (Department of Rehabilitation)

#### (Office of the Chief Settlement Commissioner)

New Delhi, the 24th May 1968

**S.O. 2124.**—Whereas the Central Government is of the opinion that it is necessary to acquire the Evacuee Properties specified in the Schedule hereto annexed in the States of Delhi, Madhya Pradesh, Bihar and Orissa for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

#### A—SCHEDULE

All properties in the States of Delhi, Madhya Pradesh, Bihar and Orissa, which have vested in the Custodian under Section 11 of the Evacuee Interests (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act upto 31st March, 1968 and in respect of which no appeals have been filed, and if filed, have been rejected by the Appellate Officer.

[No. 22(14) Comp. & Prop./61.1]

A. G. VASWANI,  
Settlement Commissioner & Ex-Officio Under Secy.

#### MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS

#### (Department of Industrial Development)

New Delhi, the 4th June, 1968

**S.O. 2125/29/B/IDRA/68.**—In exercise of the powers conferred by sub-section (1) of section 29B of the Industrial (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following amendments

to the notification of the Government of India in the late Ministry of Industry No. S.O. 3720 (29/B/IDRA/66), dated the 29th November, 1966 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 10th December, 1966, namely :—

(1) In the proviso to the said notification, for item (iii), the following item shall be substituted, namely :—

"(iii) the new article or articles to be produced or manufactured do not exceed 25 per cent of the registered or licensed capacity (by value) of the undertaking; and";

(2) in item (iv), for the words "the new article or articles to be produced or manufactured do not include any of the following, namely :—", the following shall be substituted, namely :—

"the new article or articles to be produced or manufactured do not include any of the items falling within the fields covered by Schedule A of the Government of India's Industrial Policy Resolution, dated the 30th April, 1956, namely :—

1. Arms and ammunition and allied items of defence equipment.
2. Atomic energy.
3. Iron and steel.
4. Heavy castings and forgings of iron and steel.
5. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
6. Heavy electrical plant including large hydraulic and steam turbines.
7. Coal and lignite.
8. Mineral oils.
9. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur gold and diamond.
10. Mining and processing of copper, lead, zinc, tin, molybdenum and wolfram.
11. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.
12. Aircraft.
13. Air transport.
14. Railway transport.
15. Shipbuilding.
16. Telephones and telephone cables, telegraph and wireless apparatus (excluding radio receiving sets).
17. Generation and distribution of electricity; or any of the following items, namely :—"

[No. 2(14)/Lic.Pol./66.]

R. C. SETHI, Under Secy.

**(Department of Industrial Development)**

**ORDER**

*New Delhi, the 4th June 1968*

**S.O. 2126/IDRA/6/68.**—In exercise of the powers conferred by section 6 of the Industries (Development & Regulation) Act 1951 (65 of 1951) read with Rules 5(1) and 8 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints till the 15th April, 1970 S/s. Anand Chand, Member of Parliament, Brijraj Singh, Member of Parliament and K. V. Seshadri, Director (Planning & Coordination), Ministry of Defence, New Delhi to be members of the Development Council established by the Order of the Government of India in the Ministry of Industrial Development and Company Affairs No. S.O. 1465 dated the 16th April, 1968 for the scheduled industries engaged in the manufacture or production of Automobiles, Automobile Ancillary Industries, Transport Vehicle

Industries, Tractors and Earth Moving Equipment and Internal Combustion Engines and directs that the following entries shall be added to the said order as entries Nos. 26, 27 and 28 namely:—

"26. Shri Anand Chand, M.P., No. 1, Pandit Pant Marg, New Delhi."

"27. Shri Brijraj Singh, M.P., No. 3, Canning Lane, New Delhi-1."

"28. Shri K. V. Seshadri, Director (Planning & Coordination), Ministry of Defence, Department of Defence Production, New Delhi."

[No. 1(80) /67-A.E.Ind.(I).]

N. SIVARAMAN, Under Secy.

## (Department of Industrial Development)

Indian Standards Institution

New Delhi, the 30th May 1968

**S.O. 2127.**—In pursuance of sub-regulation (1) of Regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as subsequently amended the Indian Standards Institution hereby notifies that twenty-three licences, particulars of which are given in the Schedule hereto annexed have been granted authorizing the licensees to use the Standard Mark.

## THE SCHEDULE

Serial No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process Covered by the Licence	Relevant Indian Standard
		From	To			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	CM/L-1666 1-4-1968	1-4-68	31-3-69	United Pulverisers, Bodla, Agra-7.	BHC dusting powders	IS : 561-1962 Specification for BHC dusting powders (second revision)
2	CM/L-1667 2-4-1968	16-4-68	15-4-69	De's Lock Industries, 31 Hari-pada Dutta Lane, Tollygunge, Calcutta-33.	Mortice lock and latches (vertical type)	IS : 2209-1966 Specification for mortice lock (vertical type) (first revision)
3	CM/L-1668 3-4-1968	16-4-68	15-4-69	Vijay Industries Corpn., 14 Watkins Lane, Howrah having their office at 53 Ezra Street, Calcutta-1.	Metal clad switches, 15 amp, 250 volts.	IS : 1567-1960 Specification for metal clad switches current rating not exceeding 100 amperes)
4	CM/L-1669 3-4-1968	16-4-68	15-4-69	Nistarini Electric Co. Pvt. Ltd., 48/1 G. T. Road, Baidyabati, Distt. Hooghly, West Bengal.	Three-phase induction motors, 0.75 KW (1 HP) with class "A" insulation.	IS : 325-1961 Specification for three-phase induction motors (second revision).
5	CM/L-1670 3-4-1968	16-5-68	15-5-69	Kisangrih, Naroda Industrial Township, Shed No. 1/C, P.O. Naroda, Distt. Ahmedabad having their office at 10, Jawaharnagar, Ahmedabad-7.	Chlordane emulsifiable concentrates.	IS : 2682-1966 Specification for chlordane emulsifiable concentrates (revised).
6	CM/L-1671 3-4-1968	16-4-68	15-4-69	Metal Udyog Pvt. Ltd., Industrial Area, Pratapnagar, Udaipur (Rajasthan).	Dieldrin emulsifiable concentrates	IS : 1054-1962 Specification for dieldrin emulsifiable concentrates.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	
7	CM/L-1672 8-4-1968	16-4-68	15-4-69	Western India Strip Mills Agra Road, Bhandup, Bombay-78	Structural steel (standard quality)	IS 226-1962 Specification for structural steel (Standard quality) (third revision)	
8	CM/L-1673 8-4-1968	16-4-68	15-4-69	Western India Strip Mills, Agra Road, Bhandup, Bombay-78	Structural steel (ordinary quality)	IS 1977-1962 Specification for structural steel (ordinary quality)	
9	CM/L-1674 10-4-1968	.	16-4-68	15-4-69	Indofil Chemical Ltd, Off Akbar Camp Road, Kolshet Zineb water dispersible powder Road, Thana having their office at Tropic House Dr E. Moses Road, Bombay-11 (BC)	IS 3899-1966 Specification for zineb water dispersible powder	
10	CM/L-1675 16-4-1968	.	1-5-68	30-4-69	The Bharat Steel Re-rolling Mills, Ladugodi Village, Near Whitefield Railway Station having their Regd office at 42½ Silver Jubilee Part Road Bangalore-2	Structural steel (standard quality).	
11	CM/L-1676 16-4-1968	.	1-5-68	30-4-69	Hindustan Wires Ltd, B T Road, Sodepore, 24 Parganas (West Bengal) having their office at 16/5 Chowringhee Road, Calcutta-13	Structural steel (ordinary quality)	IS 1977-1962 Specification for structural steel (ordinary quality)
12	CM/L-1677 22-4-1968	.	1-5-68	30-4-69	Deepak Pulverisers, Kolshet Road, Thana (Near Power House).	Malathion emulsifiable concentrates	IS 2567-1963 Specification for malathion emulsifiable concentrates.
13	CM/L-1678 22-4-1968	.	1-5-68	30-4-69	Hans Raj Mahajan & Sons, G T. Road, Jullundur City	Hockey sticks	IS 1829-1965 Specification for hockey sticks (revised)
14	CM/L-1679 22-4-1968	.	1-5-68	30-4-69	Bhagwati Steel Pvt. Ltd, 58/4 Goshala Road, Liluan, Howrah.	Structural steel (standard quality)	IS 226-1962 Specification for structural steel (standard quality) (third revision).
15	CM/L-1680 23-4-1968	.	1-5-68	30-4-69	Pathardihi Engg. Works, P.O Pathardihi (Dhanbad)	Structural steels (standard quality)	IS 266-1962 Specification for structural steel (standard quality) (Third revision)
16	CM/L-1681 23-4-1968	.	1-5-68	30-4-69	Pathardihi Engg. Works, P.O Pathardihi (Dhanbad)	Structural steel (ordinary quality).	IS 1977-1962 Specification for structural steel (ordinary quality).

17	CM/L-1682 24-4-1968	.	1-5-58	30-4-69	Hindustan Mineral Product Co. Pvt. Ltd., 111, Industrial Area, Sion, Bombay-22 (DD)	Endrin emulsifiable concentrates.	IS : 1307-1958 Specification for aldrin emulsifiable concentrates.
18	CM/L-1683 24-4-1968	.	1-5-68	30-4-69	Madhusudan Vegetable Products Co. Ltd., Rakhiyal Station, Taluka Dehgam, Distt. Ahmedabad (Gujarat State).	18-litre square tins	IS : 916-1966 Specification for 18-litre square tins.
19	CM/L-1684 30-4-1968	.	1-5-68	30-4-69	Marvel Pvt. Ltd., C/18, Naroda Industrial Estate, Naroda, Ahmedabad (Gujarat State)	Endrin emulsifiable concentrates	IS : 1310-1958 Specification for endrin emulsifiable concentrates.
20	CM/L-1685 30-4-1968	.	1-5-68	30-4-69	Weston Corpn., S-26 Industrial Town, Juhundur City.	Volley balls, Laceless	IS : 417-1965 Specification for footballs, volleyballs, basket balls and water polo balls (revised)
21	CM/L-1686 30-4-1968	.	1-5-68	30-4-69	Palsons Industries, Sultanpur Road, Kapurthala.	Door closers (hydraulically regulated), size 2 and size 3.	IS : 3564-1966 Specification for door closers (hydraulically regulated).
22	CM/L-1687 30-4-1968	.	1-5-68	30-4-69	Oriental Power Cables Ltd., Cable Nagar, Near Kota (Rajasthan).	Hard-drawn stranded aluminium and steel cored aluminium conductors for overhead power transmission purposes.	IS : 398-1961 Specification for hard drawn stranded aluminium and steel cored aluminium conductors for overhead power transmission purposes (revised).
23	CM/L-1688 30-4-1968	.	16-5-68	15-5-69	T.R. Industrials, Kunia Mathur Post, Coimbatore-8.	Three phase induction motors, 3.7 KW, 5.5. KW and 7.5 KW (5 HP, 7.5 HP and 10 HP) with class 'A' insulation.	IS : 325-1961 Specification for three phase induction motors.

{No. CMD/13 : 11}

New Delhi, the 31st May 1968

S. O. 2128.—Certification Marks Licences, details of which are mentioned in the schedule given hereafter, have lapsed or their renewal deferred :—

THE SCHEDULE

Sl. No.	Licence No. and Date	Licensee's Name and Address	Article/Process and the Relevant IS : No.	S. O. Number and Date of the Gazette Notifying Grant of Licence	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1	CM/L-181 30-3-1960	M/s. Shiv Scientific & Chemicals, 55 Industrial Estate, Agra (U.P.)	Hydrochloric acid, pure and analytical reagent grades—IS: 265-1962	S. O. 917 dated 16-4-1960	Deferred 15-4-1968 after
2	CM/L-182 30-3-1960	M/s Shiv Scientific & Chemicals, 55 Industrial Estate, Agra (U. P.)	Sulphuric acid, pure and analytical reagent grades—IS: 266-1961	S. O. 917 dated 16-4-1960	Deferred 15-4-1968 after
3	CM/L-241 21-II-1960	M/s Bharat Pulverising Mills Pvt Ltd, Chin-chpokli Cross Lane, Byculla, Bombay	BHC water dispersible powder concentrates—IS : 562-1962	S. O. 2956 dated 10-12-1960	Deferred 16-4-1968 from to 15-5-1968
4	CM/L-1017 26-2-1965	M/s Ankar Industries, Jessor Road, P. O. Madhyamgram, 24 Parganas	Dieldrin emulsifiable concentrates—IS: 1054-1962	S. O. 987 dated 27-3-1965	Lapsed 30-4-1968 after
5	CM/L-1048 29-3-1965	M/s Dhanpat Mal Jawala Das Feed Mills, 33 Najafgarh Industrial Area, New Delhi-15 (Factory under Style of Nandi Proven-der Mills)	Balanced feed mixtures for cattle—IS: 2052-1962	S. O. 1406 dated 1-5-1965	Deferred 15-4-1968 after
6	CM/L-1049 31-3-1965	M/s Jindal (India) Pvt Ltd, 4 Dharamtala Road, P. O. Belurmath, Distt Howrah	Mild steel tubulars and sockets—IS: 1239-1964	S. O. 1406 dated 1-5-1965	Lapsed 30-4-1968 after
7	CM/L-1238 1-4-1966	M/s Shibu Metal Works, Subzimandi, Jagadhri	Rolled brass, sheets and strips, grade Bs 60—IS: 410-1959	S. O. 1515 dated 28-5-1966	It was deferred after 15-4-67 and has now to be treated as lapsed after that date.
8	CM/L-1301 25-7-1966	M/s Shibu Metal Works, Subzimandi, Jagadhri	Copper plate, sheet and strips for industrial purposes—IS : 1972-1961	S. O. 2600 dated 27-8-1966	It was deferred after 15-8-67 and has now to be treated as lapsed after that date.

9	CM/L-1316 25-8-1966	M/s Indo-Asian Traders Pvt Ltd, Nakodar Road, Jullundur	Rewirable electric fuses (carriers and bases) 15 amp, 250 V, HC design only—IS: 2086-1963	S. O. 2925 dated 1-10-1966	It was deferred after 16-9-1967 and has now to be treated as lapsed after that date.
to	CM/L-1336 29-9-1966	M/s Foods Fats & Fertilizers Ltd, Tanaku Road, Tadepalligudem (West Godavari District) (Andhra Pradesh)	Poultry feeds—IS : 1374-1964	S. O. 3299 dated 5-II-1966	Deferred 31-3-1968 after
ti	CM/L-1337 29-9-1966	M/s Foods Fats & Fertilizers Ltd, Tanaku Road, Tadepalligudem (West Godavari District) (Andhra Pradesh)	Balanced feed mixtures for cattle—IS: 2052-1962	S. O. 3299 dated 5-II-1966	Deferred 31-3-1968 after
ti2	CM/L-1425 11-4-1967	[M/s Prakash Metal Industries, Chhachrauli Gate, Jagaduri	Wrought aluminium utensils, Grade SIC— IS : 21-1959	S. O. 2769 dated 12-8-1967	Deferred 15-4-1968 after

[No. CMD/13 : 14.]

**S. O. 2129.—In the Certification Marks Licences, detail of which are mentioned in the Schedule given hereafter, amendments have been made as shown against each licence :—**

**THE SCHEDULE**

Sl. No.	Licence No. (CM/L.)	Name and Address of the Licensee	S. O. Number and Date of the Gazette in which Grant of Licence was Notified	Nature of Amendments	Date of effect of the Amendment
(1)	(2)	(3)	(4)	(5)	(6)
1	570	M/s Radio & Electricals Mfg Co Ltd, S. O. 2959 dated P. Box 26, Mysore Road, Bangalore.	19 October, 1963	The following varieties of cables and cords as per IS: 694 (Parts I & II) 1964, have been included in the licence : (a) <i>PVC Insulated Cables</i> (i) Single core (sheathed), 250/440 volts with copper conductors (ii) Circular twin, three and four cores (PVC sheathed), 250/440 volts with aluminium conductors (b) <i>PVC Insulated Flexible Cords</i> (iii) Circular twin, three and four cores (PVC sheathed) 250/440 volts with copper conductors	20 May 1968
2	1583	M/s Rattanchand Harjasrai (Mouldings) Pvt Ltd, 54, Industrial Area, Faridabad (Haryana)	S. O. 284 dated 20 January 1968	Plastic water closet seats and covers of Type A made out of ureaformaldehyde, as per IS : 2548E-1966, have been included in the licence.	1 June 1968
3	1663	M/s Oswal Electricals, 49, Industrial Area, Faridabad (Haryana)	S. O. 1470 dated 27 April 1968	0.27 KW (1/2 HP) and 0.75 KW (1 HP) electric motors, as per IS : 996-1964, included in the licence.	16 May 1968

[No. CMD/13 : 11.]

**S.O. 2130** In partial modification of the notifications published in the Gazette of India, Part II, section 3 (ii), details of which are mentioned in col (2) of the schedule given hereafter, it is hereby notified that the dates of effect of the five amendments to Indian Standard Specifications as shown in col. (4) against each standard, shall be amended to read as 11 January 1968 :

### THE SCHEDULE

Sl. No.	S. O. No. and Date of the Gazette in which Published	No. and Title of the Indian Standard Amended	No. and Date of Amend- ment
(1)	(2)	(3)	(4)
1	S. O. 968 dated 20 January 1968	(i) IS:3471E-1966 Specification for solvent-extracted coconut oil, (ii) IS:3472E-1966 Specification for solvent-extracted cotton seed oil, and (iii) IS:3475E-1966 Specification for solvent-extracted MAHUA (MOW-RAH) oil	No. 1 February 1968
2	S. O. 1368 dated 20 April 1968	IS:3473E-1966 Specification for solvent-extracted groundnut oil	No. 1 February 1968
3	S. O. 1719 dated 18 May 1968	IS:3539E-1966 Specification for ready mixed paint, undercoating, for use under oil finishes, standard colours as required.	No. 1 March 1968

[No. CMD/13:5.]

(Dr) A. K. GUPTA,  
Deputy Director General.

### CENTRAL EXCISE COLLECTORATE, KANPUR

Kanpur, the 22nd April 1968

**S.O. 2131.**—In exercise of the powers conferred upon me by Rule 5 of the Central Excise Rules, 1944, I hereby empower the Central Excise Officers specified in Column (2) of the Table given below to exercise within their respective jurisdiction the powers of the "Collector" under the Central Excise Rules enumerated in Column (1) thereof subject to the limitation set out in Column (3) of the said table.

TABLE

C. E. Rules	Rank of officer	Limitation, if any
1	2	3
where the duty involved in each case does not exceed.		
191-B(5)	Deputy Collectors	Rs. 10,000
191-B(5)	Assistant Collectors	Rs. 1,000
191-B(5)	Superintendents	Rs. 250

[No. 2/CE/68.]

V. PARTHASARATHY, Collector.

**COLLECTORATE OF CENTRAL EXCISE, POONA****CENTRAL EXCISES***Poona, the 29th May 1968*

**S.O. 2132.**—In exercise of the powers, vested in me under Rule 5 of the Central Excise Rules, 1944, I empower all officers of and above the rank of Assistant Collector to exercise within their respective jurisdiction the powers of Collector under the Central Excise Rules, specified in Column 2 of the table subjoined subject to the limitations indicated in Column 3 thereof.

TABLE

Rank of Officers	Rule No.	Limitations
I	2	3
All Officers of and above rank of A.Cs. <sup>J.R.</sup>	173-E. 173-G.	NIL. To exempt manufacturers from maintenance of statutory account(s) if the manufacturers are maintaining satisfactory private accounts giving all the requisite information required.

[No. CER.3/68.]

D. N. LAL, Collector.

**COLLECTORATE OF CENTRAL EXCISE, CALCUTTA & ORISSA, CALCUTTA****CENTRAL EXCISES***Calcutta, the 31st May 1968*

**S.O. 2133.**—In exercise of the powers conferred on me by rule 5 of the Central Excise Rules, 1944, I hereby authorise the Central Excise Officer of and above the rank of an Assistant Collector in the Collectorate of Central Excise, Calcutta and Orissa, Calcutta, to exercise the powers of Collector under Rule 52A of the Central Excise Rules, 1944 in their respective jurisdiction subject to the condition that the document in lieu of gate pass (Central Excise Series No. 65A) shall for purposes of Rule 173G(2) *tbid* show the rate of duty and the amount of duty paid on the excisable goods and the time of actual removal of the goods from the factory.

(No. F. 2/1968.)

**S.O. 2134.**—In exercise of the powers conferred on me by rule 5 of the Central Excise Rules, 1944, I hereby authorise the Central Excise Officer of and above the rank of an Assistant Collector in the Collectorate of Central Excise, Calcutta & Orissa, Calcutta, to exercise the powers of Collector under Rule 53 read with Rule 173G(4) of the Central Excise Rules, 1944 in their respective jurisdiction subject to the condition that the stock account maintained in a form other than that in form R.G. 1 (for assessees working under self removal procedure), shall contain the information required by the R.G. 1 aforementioned.

[No. 3/1968.]

N. MOOKHERJEE, Collector.

**OFFICE OF THE COLLECTOR OF CENTRAL EXCISE MADHYA PRADESH AND VIDARBHA, NAGPUR**

**CENTRAL EXCISE**

*Nagpur, the 1st June, 1968.*

**S.O.2135.**—In exercise of the powers conferred upon me under Rule 5 of the Central Excise Rules 1944 I hereby empower the Central Excise Officers specified in column 2 of the subjoined table to exercise within their jurisdiction and *in relation to the assessees governed by the provision of Chapter VII-A of the said rules*, the powers of the “Collector” under the Central Excise Rules enumerated in column 1 thereof subject to the limitations set out in column 3 of the said table.

Central Excise Rule.	Rank of Officer	Limitations, if any
1	2	3
1. Rule 52A(1)	Assistant Collector of Central Excise.	To authorise removals on documents other than gate pass in the Statutory form in the units working under Self Removal Procedure.
2. Rule 53 read with Rule 173G(4).	Assistant Collector, Central Excise.	To exempt the assessee from maintaining a daily stock account in Form RG1, if the assessee is maintaining satisfactory private account from which all information as required in “RG1” can be readily obtained.
3. Rule 173-E.	Of and above the rank of Assistant Collector of Central Excise.	To determine the normal production of a factory working under the Self Removal Procedure <i>viz.</i> , Ch. VII-A of the Central Excise Rules 1944.

[No. 4/1968.]

VIPIN MANEKLAL, collector

**BOMBAY CENTRAL EXCISE COLLECTORATE**

**CENTRAL EXCISES**

*Manufactured Products*

*Bombay, the 30th May 1968*

**S.O.2136**—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I hereby empower the Central Excise Officers of and above the rank as specified in column 2 of the subjoined table to exercise the powers of “Collector” under Central Excise Rules enumerated in column 1 thereof subject to the limitations set out in column 3 of the said table :—

**TABLE**

C. Ex. Rules	Rank of Officer	Limitations, if any
(1)	(2)	(3)
96ZH (1)	All officers of and above the rank of Superintendent of Central Excise.	
96ZH (2)	Do.	(i) power of accepting renewal application in form A. S. P. shall be
96ZH (3)	Do.	exercised by Superintendent of Central Excise.
6ZH (4)	Do.	

(1)

(2)

(3)

(ii) where delay in presenting the A. S. P. is not more than 10 days the Superintendent of Central Excise shall exercise power in condoning the delay.

(iii) where delay in presenting the A. S. P. exceeds 10 days, Assistant Collector of Central Excise, shall exercise the power.

96ZH(5) All Officers of & above the rank of Ass'tt. Collector of Central Excise.

96ZI(4)

Do.

Do.

[No. CBRA/5/3/68.]

**S.O. 2137.** —In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules 1944 I hereby empower the undementioned officers of Central Excise of the Bombay Central Excise Collectorate to exercise within their respective jurisdictions the powers of the Collector under the rules mentioned in column No. 2 subject to the limitations set out in column No. 3 of the sub-joined table :—

Rank and name of the Officer	Rules		Limitations
	1	2	3
Ass'tt. Collector Central Excise.	Central 53 and 173G(4)		To accept the private accounts relating to production, disposal etc. of excisable goods maintained by the assessees who are following the Self Removal Procedure as laid down in Chapter VII-A of the C. Ex. Rules 1944 provided all the information as required in form R. G. 1 prescribed under this Collectorate Notification No. CER/173G (4)/1/1968 dated 30th May, 1968 can be readily obtained from such accounts.
Do.	173G(4)		To accept the private accounts of raw materials and components received and used in the manufacture of excisable and non-excisable products and of finished products maintained by the assessees who are following the Self Removal Procedure as laid down in Chapter VII-A of the Central Excise Rules 1944, provided all the information as required in the Account of Raw Materials and Components prescribed in this Collectorate Notification (C. E) No. CER/173G(4)/1/1968 dated 30th May 1968 is available in such accounts.

[No. CER/5/4/68.]

**S.O. 2138.** —In exercise of the powers conferred on me under Rule 173B of the Central Excise Rules 1944, I hereby prescribe a Form of Classification List as appended to this Notification which every assessee working under the Self Removal Procedure as laid down under Chapter VIIA of the Central Excise Rules 1944 shall file to the proper officer for his approval, showing therein the full description of all excisable goods, produced or manufactured by him, all other goods produced or manufactured by him and intended to be removed from his factory and all excisable goods warehoused in his warehouse, the item number

and sub-item number if any of the First Schedule to the Central Excise and Salt Act 1944 under which each such goods fall and the rate of duty leviable on each such goods.

Range.....	<u>Original</u>
Circle.....	<u>Duplicate</u>
Division.....	<u>TriPLICATE</u>
Collectorate.....	<u>Quadruplicate</u>

*Classification list of excisable goods produced, manufactured or warehoused and other goods produced or manufactured and intended to be removed by the Assessee.*

(Rule 173 B)

1. Name and address of the assessee.....
2. Location of the Factory/Warehouse.....
3. Central Excise Licence No.....
4. Particulars of all excisable goods produced, manufactured or warehoused.

S. No.	Full Des- cription of the goods	Item No. and sub- item, if any, of the First Schedule to the Central Excises and Salt Act, 1944 under which the goods fall	Rate of duty leviable (give details of basic and other duties separately)	No. and date of the relevant notification (s) if any, issued under rule 8 having a bearing on the rate of duty	Remarks
(1)	(2)	(3)*	(4)*	(5)*	(6)

\*NOTE :—If the assessee has any difficulty in filling columns (3), (4) and (5), he may leave them blank. These will then be filled up by the Central Excise Officer.

5. Particulars of other goods produced or manufactured and intended to be removed by the assessee.

Serial No.	Full description of the goods	Remarks

Verified.

Declaration

Place : Signature and stamp of the  
Central Excise Officer-in-charge.

I/We declare the above particulars to be  
true and correctly and fully stated.

Place : Signature of the assessee or his authorised agent.

Date :

**MEMORANDUM BY THE SUPERINTENDENT OF CENTRAL EXCISE**

(Strike out the portions which are not applicable)

(1) Tariff classification and rate of duty leviable in respect of all goods.....  
.....below  
goods described against S. No. (s).

Item No. 4 above is approved, until further orders. Tariff classification and rate of duty leviable in respect of the following goods shall be as under, until further orders.

(2) Tariff classification and rate of duty leviable in respect of goods described against S. No. (s)  
.....below item No. 4 above is approved provisionally. Assessment of these goods shall be made by the Central Excise Officer-in-charge provisionally under rule 9P.

(3) All goods.....  
.....below  
Goods described against S. No. (s).....

No. 5 are non-excisable. Goods described against S. No. (s).....  
.....below item No. 5 are excisable. Tariff classification and rate of duty leviable in respect of these goods shall be as under, until further orders:—

Place : Signature and stamp of Superintendent

Date : of Central Excise.

[No. CER/173B/1/68.]

**S.O. 2139.**—In exercise of the powers conferred on me by Rule 173 C(1) of the Central Excise Rules, 1944, I hereby prescribe a Form of Price list which should be filed for each quarter ending March, June, September and December of every year by every assessee who is following the Self Removal procedure as laid down in Chapter VII-A of the Central Excise Rules, 1944 and who produces, manufactures or warehouses excisable goods which are chargeable with duty at a rate depending on the value of the goods, to the Superintendent of Central Excise having jurisdiction over his factory or warehouse well in advance of the start of the quarter in question. If there is any alteration and modification in the prices or change in the mode of sale from the stage of clearance from the factory to the whole-sale dealers/the consumers, he shall file a fresh price list in the prescribed form or communicate an amendment to the list already filed and approved by the proper officer, well before giving effect to such alteration, modification or change in the mode of sale. If there is no change whatsoever in the price list already filed for the previous quarter and approved by the proper officer, he shall communicate to this effect to the proper officer also well in advance before the beginning of the relevant quarter.

*Form of Price List*

Price list of M/s.....holder of L. 4 No. ....  
in respect of.....(mention here name of excisable goods) for  
the quarter ending .....March June/September/December, 196.....

S. No.	Full description of excisable goods	Unit of sale	Quantity or No. packed in such unit
1	2	3	4

Price charged by the manufacturer to the whole-sale dealers or consumers if there is a direct sale.

Price per unit	Discount allowed if any and conditions	Details of taxes including Central Excise duty if any included in the price
5	6	7

Price charged by the manufacturer to the sole distributors, sole selling agents or authorised stockists.

Name of distributor/sole selling agent/authorised stockists	Price charged per unit	Discount allowed if any and conditions <sup>1</sup>	Details of taxes including C. Ex. duty if any included in the price
-------------------------------------------------------------	------------------------	-----------------------------------------------------	---------------------------------------------------------------------

8

9

10

11

Price charged by the sole distributors, sole selling agents or authorised stockists to the wholesale dealers or to the consumers.

Price charged per unit	Discount allowed if any and conditions	Details of taxes including Central Excise duty if any included in the price
------------------------	----------------------------------------	-----------------------------------------------------------------------------

12

13

14

Assessable value	Full details of the channel of marketing the goods from the stage of clearance of goods from the factory to the wholesale dealers or consumers and the conditions of agreement if any	Remarks
------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------

15

16

17

I/We certify that the information given above is true and correct in all respects.

Signature of the manufacturer or his authorised agent,

NOTE :—Separate price list should be filed for each excisable goods manufactured in the factory and assessable to duty *ad valorem*. If the goods are assessed to duty under different sub-items of the main Tariff Item, separate sections for goods assessable to duty under different sub-items should be opened in the price list.

[No. CER/173 C (1) /1/68.]

**8. O.2140**—In exercise of the powers conferred on me under sub-rule (1) of Rule 173G of the Central Excise Rules, 1944, I hereby prescribe a Form of Account Current as appended to this Notification, which shall be maintained by every assessee working under the Self Removal Procedure as laid down under Chapter VIIA of the Central Excise Rules, 1944, as require under the provisions of the said rule.

*Personal ledger account*

Rule 173G(G)

For fortnight ending ..... 196

Original

Duplicate

TriPLICATE

M/s .....	Collectorate
Type & No. of Licence & Commodity .....	Division
Address.....	Circle
Current Account No .....	Range

Particulars of Credit/debit documents			Basic	Excise	duty	
Date	Description with name of Treasury where necessary	No.	Date	Credit	Debit	Balance
1.	2(i)	2(ii)	2(iii)	3(i)	3(ii)	3 (iii)

Additional Ex. Duty				Special Excise Duty			
Credit	Debit	Balance	Credit	Debit	Balance	Credit	Debit
3(i)	4(ii)	4(iii)	5(i)	5(ii)	5(iii)	6(i)	6(ii)

				Signature of the assessee or his agent
Balance 6(iii)	Credit 7(i)	Debit 7(ii)	Balance 7(iii)	(8)

**NOTES:**

- This account should be prepared in triplicate using indelible ink and double-sided carbon. The original and duplicate copies should be detached and sent to the Central Excise Officer-in-charge along with the fortnightly return.
- Where a licensee pays duty on more than one excisable commodity, a separate account should be maintained for each commodity.
- Columns 6 & 7 of the form have been left blank to be used for showing any other type of duty, if necessary.
- No. & date of Gate Pass against which debit is raised in this account should be shown in Cols. 2 (ii) & 2 (iii) where a consolidated debit entry is permitted to be made at the end of the day, numbers of gate passes may be recorded as "From.....to.....".

S.O. 2141.—In exercise of the powers conferred on me under sub-rule (3) of Rule 173G of the Central Excise Rules 1944, I hereby prescribe a Form of Fortnightly Return as appended to this Notification, which shall be filed with the proper officer by every assessee working under the Self Removal Procedure as laid down in Chapter VII-A of the Central Excise Rules 1944, as required under the provisions of the said rule.

Range .....	Original
Circle .....	Duplicate
Division .....	TriPLICATE
Collectorate .....	Quadruplicate

*Assessment Return of Excisable Goods Removed under Self Removal Procedure*

(Rule 173 G)

1. Name and address of the assessee.....
2. Location of the factory/warehouse .....
3. Central Excise licence No.....
4. Period to which the return relates.....
5. Particulars of all excisable goods removed for, or put to, home use during the above period:

Sl. No.	No. and descrip- tion of packages	Total quantity	Full description of the goods with tariff classi- fication	Real value (under section 4 of the Act)	
				Rate	Amount
I	2	3	4	5	

Invoice value		Tariff value, if any prescri- bed		Duty Paid		No(s) and date (s) of gate pass(s)/other cover- ing document(s) enclos- ed		Remarks
Rate	Amount	Rate	Amount	Rate	Amount	(Separate entries for basic and other duties should be made on diff- erent horizontal lines and the amounts total- led)		
6	7	8	9	10				

**NOTE:-**

A separate return should be prepared for each tariff item. Entries in the return should be tariff sub-item wise, where applicable. If within the same sub-item there are different rates of duty fixed by exemption notification, the rate-wise break-up should also be given in the return.

*Declaration*

I/we declare the above particulars to be true and correctly stated.

*Signature of the assessee or his authorised agent.*

Place :

Date :-

## ASSESSMENT MEMORANDUM

(Strike out the portions which are not applicable)

**i.** The assessee has paid the duty on the above goods correctly except to the extent indicated below :—  
The duty short-levie as indicated above should be paid by the assessee within ten days by debit in his account current (P.L.A.) The assessee is advised to lodge an application for refund for the duty paid in excess as indicated above.

**2.** Duty on the goods described against serial No(s) ..... above has been assessed provisionally under Rule 9B and provisions of the said rule shall apply for recovery of deficiency in, or refund of excess of duty.

Signature and stamp of Central Excise Officer-in-charge.

**Place :**

Date :

[No. CER/173G(3)/1/68.]

*Bombay, the 31st May 1968*

**S.O. 2142.**—In exercise of the powers conferred on me under Rule 53 and sub-rule (4) of Rule 173G of the Central Excise Rules 1944 I hereby prescribe a Daily Stock Account in form R.G. 1 appended to this Notification which shall be maintained by every assessee working under the Self Removal Procedure as laid down in Chapter VII-A of the Central Excise 1944 for accounting production, storage, delivery or disposal of excisable goods.

2. In exercise of the powers conferred on me under sub-rule (4) of Rule 173G of the Central Excise Rules, 1944, I hereby prescribe an Account of Raw Materials and Components in the form appended herewith which shall be maintained by every assessee working under the Self Removal Procedure laid down in Chapter VII-A of the Central Excise Rules 1944 for accounting raw materials and components received and consumed in the manufacture of excisable or any other goods.

R. G. L.

## DAILY STOCK ACCOUNT

(For assessees working under self removal procedure)

(Rules 53 and 173G)

Name and address of the Factory.....

Description of goods.....

Date	Opening balance	Quantity manufactured	Total (Cols. 2 + 3)
1	2	3	4

### *Removal From The Factory*

On Payment of Duty				Without Payment of duty			
For home use		For export under claim for rebate of duty		For export under bond	To other factories or warehouses under bond	For other purposes	
Quantity	Value	Quantity	Value			Purpose	Quantity
3	6	7	8	9	10	11	12

Duty		Closing		Balance		Remarks	Signature of the assessee or his agent
Rate	Amount	In finishing room	In bonded store rooms(s)	16	17	18	
13	14	15					

**NOTE :—**

1. A separate register (or separate opening in a register) should be maintained for each excisable commodity under each item and sub-item of the Tariff.
2. Quantity manufactured (Col. 3) should be the total quantity of finished products deposited in the bonded store-room or other authorised place without payment of duty and those lying temporarily in the finishing room awaiting removal to the bonded store-room.
3. Value in columns 6 and 8 should, in the case of goods subject to duty *ad-valorem*, be the value on the basis of which duty is determined; in other cases it should be the invoice value.
4. Duty free removals for samples, for destructions, and for re-processing of goods accounted for in R. G. 1 should be shown in columns 11 and 12.
5. In columns 13 and 14, separate duty figures should be given in respect of each type of duty.

*Account of Raw Materials and Components*

(Rule 173 G)

Name and address of the factory.....

Description of raw material/component.....

Date	Openig Balance	Quantity received	Total	Quantity used in the manufacture of		Quantity otherwise disposed of	
				Excisable goods	Other goods	Nature of the disposal	Quantity
1	2	3	4	5	6	7	8

Quantity was- ted or destroyed	Closing balance	Quantity of excisable goods manufactured	Quantity of other goods manufactured	Remarks	Signature of the assessee or his agent
9	10	11	12	13	14

Total for the month

**NOTE :—**

1. Separate opening should be provided in respect of each raw material/components.
2. If any raw material/component is used for more than one excisable goods (falling under different tariff items) or other goods manufactured, quantity used for each of

such goods should be shown separately alongwith description of such goods by suitably sub-dividing columns 5 and 6.

3. Columns 11 and 12 need not be filed in daily; only the monthly figure may be shown against "Totals for the month".

[No. CER/173G(4)/1/1968.]

**S.O. 2143.**—In exercise of the powers conferred on me under Rule 173-H of the Central Excise Rules, 1944, I hereby prescribe the procedures as mentioned in "Annexure A" appended which shall be followed by every assessee working under the Self Removal Procedure as laid down in Chapter VII-A of the Central Excise Rules, 1944, for retaining in or bringing into his factory or warehouse, the goods on which duty has been paid, for the purposes mentioned below:—

- (i) Goods received/retained for use in the manufacture of other goods in the factory, or
- (ii) Goods returned to the factory for being remade, refined reconditioned, repaired or subjected to any similar process in the factory;
- (iii) After payment of duty the goods cannot immediately be transported due to circumstances beyond the control of the assessee, such as non-availability of Railway wagon, break down of carriers etc.;
- (iv) When goods cleared on payment of duty are brought back into the factory due to sudden suspension of booking on Railways; or
- (v) Goods retained in or brought into the factory for test, studying designs, method of construction, etc.; or
- (vi) Goods are required to be stored in the factory for retail sale or for issue as complimentary gifts or for repacking into packages so as to suit the requirements of individual customers.

#### "ANNEXURE A"

(i) *Goods Received/Retained for use in the Manufacture of other Goods in the Factory.*

(1) The assessee should notify to the Superintendent of Central Excise having jurisdiction over the factory immediately after the goods are received or to be retained into the factory.

(2) The goods should be presented for inspection/Examination by the Central Excise Officer deputed for the purpose, with the bill of entry (in respect of imported excisable goods) or A.R. 1 or gate pass under Self Removal Procedure in respect of Indigenous excisable goods.

(3) The assessee should maintain a record in the following proforma showing details of the goods retained/received, disposed of etc.

Date	Description goods	Opening balance	Receipts/Retained		Total
			A. R. 1/Bill of Entry No. and date or gate pass No. and date	Quantity	
1	2	3	4	5	6

Signature of manufacturer	Signature of C. Ex. Officer	Issues			Closing balance	Remarks
		No. & Date of gate pass	Quantity	Delivery Note etc.		
7	8	9	10	11	12	

(4) The stocks and account shall be open to inspection by any Central Excise Officer at all times.

(ii) Goods returned to the factory for being remade, refined, reconditioned, repaired or subjected to any similar process in the factory.

(a) When duty paid except (i) Electric Fans, Electric Batteries, Electric Bulbs, Tyres and Tubes, Internal Combustion Engines, Electric Motors, W.R. Sets, Refrigerating and Air-conditioning appliances, Cement, Woollen Fabrics, Sugar are returned for being remade, refined, reconditioned or subjected to any similar process in the factory.

(1) The assessee must notify to the Superintendent Central Excise having jurisdiction over his factory immediately after receipt of the goods into the factory. The goods should be stored separately till these are inspected by the Central Excise Officer.

(2) The goods shall be presented for inspection and if necessary for sampling by the Central Excise Officer deputed for the purpose, who will examine and identify the duty paid goods with the relative clearance documents before they are taken into stock. For this purpose the said Central Excise Officer will verify that the goods as originally issued from the factory, have not been tampered with or made use of in any way and the smallest packages meant for retail sale, except those few which may have been opened for sampling are intact and unopened.

Collateral evidence available with the assessee e.g., correspondence with the buyer regarding rejection of such goods, reports about assessment of damage by assessors, etc., shall also be produced before the Central Excise Officer to satisfy him about the bona fides of such re-entry. Where some or all of the unit packages had been opened before return of the consignments, identity of the goods returned shall also be established with reference to such collateral evidence. Wherever there are markings on containers which are described either in the clearance documents or in other accounts of the assessee all such records shall be produced before the Central Excise Officer to facilitate identification.

(3) A detailed account of the returned goods and the process to which they are subjected after their return to the factory shall be kept by the assessee in the R.G. 1 prescribed under Chapter VII A of the Central Excise Rules, separate pages being set apart in the said records for this purpose.

(4) The record so maintained shall be open to inspection by any Central Excise Officer at all times.

(b) Damaged Sugar/Cement Brought back to the Factory for Refining, Reprocessing etc.

(1) The assessee shall inform the Superintendent of Central Excise having jurisdiction over the factory immediately after receipt of the consignment into the factory. The consignment should be stored separately till it is inspected by the Central Excise Officer.

(2) The Central Excise Officer deputed for the purpose will weigh the consignment so received into the factory, draw representative sample, prepare the usual test memo and forward the samples to the Chemical Examiner for ascertaining the recoverable Sugar/Cement.

(3) On receipt of the test report from the Chemical Examiner, the Asstt. Collector will intimate to the Supdt. of Central Excise concerned the quantity of goods permitted to be delivered free of duty from the factory against the damaged goods brought into the factory.

(4) The Suptd. Central Excise concerned on receipt of orders from the Ass'tt. Collector will apprise the assessee of the result of the chemical analysis and will permit a quantity equivalent to the recoverable quantity as determined by the Chemical Examiner without payment of duty.

(5) The assessee shall maintain a detailed account of the damaged goods received and the processes to which the goods are subjected at the factory in the following form:

Date of entry of damaged Sugar/Cement	No. of packages	Description of goods	S. No. of packages	Total Qty. entered	Processes to which* subjected	
I	2	3	4	5	6	
ty. re- coverable.	Permissible Qty. for delivery free of duty against the Qty in Col. 7 (as intimated by Supdt. Cen- tral Excise).	Date of reissue	Qty. issued against Col. 8	Signature of licensee	Balance	Remarks
7	8	9	10	11	12	13

(c) Electric Batteries, Fans and Electric Bulbs, Tyres, Tubes, Internal Combustion Engines, Electric Motors, W. R. Sets, Refrigerating and A. C. Appliances brought into the factory for Repair, Reconditioning etc.

(1) The assessee must notify to the Suptd. of Central Excise having jurisdiction over the factory immediately after receipt of the goods into the factory. The goods should be stored separately, till these are inspected by the Central Excise Officer.

(2) The goods so received shall be stored in separate place specified for the purpose of repairing, reconditioning etc., shall as far as possible be undertaken in a separate section as distinct from the manufacturing section. Where it is done in the manufacturing section itself, prior intimation should be given to the Supdt. of Central Excise concerned.

(3) The assessee shall pay duty on excisable parts used for repairing, reconditioning, etc., in the usual manner at the time of removal of excisable parts before utilising them for repairs.

(4) All removal of repaired goods shall take place under cover of separate gate passes maintained for this purpose.

(5) A detailed account of the returned goods shall be kept by the assessee in the following form:

Date	Receipt		Quantity or number received	Signature of the manufacturer.
	Description of goods received.	Brand name with identifying marks as far as possible.		
I	2	3	4	5

Details of repairs/ reconditioning		Issues		
Description of excisable parts used.	Amount of duty paid with No. & date of gate pass	Date of Reissue.	G. P. No. & date	Initials of manufacturer Remarks
6	7	8	9	10 11

(6) The manufacturer shall remove the goods after repair/reconditioning within 1 month of the date of receipt into the factory; but the time limit shall be extended by the Supdt. of Central Excise to 3 months subject to the condition that the No. of such batteries/fans so brought into the factory for repair/reconditioning does not exceed at any one time 1 per cent of the annual production of the assessee. This limit shall be relaxed to 5 per cent in case of Electric Motors, Electric Batteries and Electric Fans. In case of Refrigerating and Air Conditioning Appliances, Electric Motors, I. C. Engines, Electric Fans and Electric Batteries, the normal period for removal will be 3 months instead of 1 month. In deserving cases extension upto 6 months will be granted by the Supdt. and beyond that period by the Collector.

(d) Goods returned to the factory for being remade, refined, reconditioned etc., under the provisions of rules, 97, 97-A, 100-A etc.

The assessee should follow the procedure laid down in the respective rules and as prescribed from time to time and he should maintain an account of the goods so received, the process to which subjected and removed in the following form:

*Account of Duty Paid Goods received for processing and repairs.*

(RULES 97, 97A & 173H)

Name and address of the Factory:

Licence No.

R E C E I P T S					DETAILS OF PROCESSING/REPAIRS				
Date of re-entry.	From whom received	Des- crip- tion of goods	Brand name with identify- ing mark if any	Qty received	Signature of the assessee or agent	Qty. re- covered after re- process.	Descrip- tion of excisable compo- nents used ; any.	Amount of duty paid on the compo- nents with No & date of gate pass.	

I      2      3      4      5      6      7      8      9

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I S S U E S					Refund granted, if any, of the duty.
Date	No. and date of gate pass	Quantity	Remarks	Signature of the assessee or his agent.	
I.O	II	III	IV	V	VI

**NOTE.**—In the case of damaged sugar/cement, if the procedure of duty-free clear-  
“Permissible” quantity for delivery free of duty as intimated by the Central Excise  
“Permissible” quantity for delivery free of duty as intimated by the Central Excise  
Officer.

(iii) After payment of Duty the Goods cannot immediately be transported due to circumstances beyond the Assessee's control such as non availability of Railway wagon or the Breakdown of carriers:

(1) The place in the factory where such duty paid goods are to be stored shall be duly declared and approved by the officer competent to issue or renew the manufacturing licence.

(2) The storage place should be separate and distinct from the all parts of the premises forming the manufactory and approved store rooms for non-duty paid goods.

(3) The assessee should intimate to the Supdt. of Central Excise having jurisdiction over the factory as soon as possible the reasons for not removing the duty paid goods, from the factory.

(4) The manufacturer shall keep an account of all receipts/issues and balance of duty paid goods in the following form:

Date	Description of goods.	Opening balance	RECEIPTS			Total
			Gate No.	pass date	Quantity	
1	2	3	4	5	6	

I S S U E		Closing balance	Signature of licensee	Signature of Central Ex- Officer.
No. and date of G. Passes.	Quantity			
7	8	9	10	11

The stocks and accounts shall be open to inspection by any Central Excise Officers at all reasonable times.

(5) All issues from the duty paid premises shall take place under gate passes.

(iv) When goods cleared on payment of duty are brought back into factory due to sudden suspension of booking on Railways.

(1) The manufacturer shall give such notice to the Supdt. of Central Excise concerned as can reasonably be accommodated after the goods are received into the factory.

(2) The goods shall be presented to the Central Excise Officer deputed for the purpose who will identify them with clearing documents like A.R. 1s , gate passes (under Self Removal Procedure).

(3) The goods shall be stored separately in a place distinct from the main premises forming the manufactory and approved store room for non-duty paid goods, and stock card superscribed "re-entered goods" showing:

- (i) Date of Receipt,
- (ii) Quantity received,
- (iii) No. and date of clearance documents,
- (iv) Date of re-issue, and
- (v) Quantity issued.

should be maintained to distinguish them from other goods, if any.

(4) All copies of original gate passes under which the goods were first cleared, should be endorsed when the goods are received back in the factory giving time and date. When the goods are cleared again, suitable entry should be made on these gate passes.

(v) *Goods brought into the factory for test or for studying designs of Method of construction etc.*

(1) The assessee shall notify to the Supdt. of Central Excise, concerned immediately after the samples of duty paid excusable goods are received in the factory. The goods should be stored separately till these are inspectd by the Central Excise Officer.

(2) The goods shall be presented for inspection if necessary for sampling by the Central Excise Officer.

(3) The assessee shall keep a simple account of the receipt and disposal of such goods. This account shall be open for inspection by any Central Excise Officer at all times.

(vi) *Goods required to be stored in the factory premises for retail sale or for issue as complimentary gifts or repacking into packages so as to suit the requirements of individual customers.*

(1) Where the assessee has a retail shop open to the public it should as far as possible be located away from the iactory premises and in any case physically segregated from the factory premises, there being no entrance to the retail shop from inside the licensed premises.

(2) Where the assessee wants to store some duty paid goods for retail sale to factory employees only or issue as complimentary gifts, he should normally arrange for storage of such goods outside licensed premises. Howevr, any assessee having no additional storage place outside the licensed premises for storing duty paid goods he will be permitted to store the goods in a separate room/ place situated within the factory premises subject the following conditions:

- (a) The separate room/place where duty paid goods are to be stored shall be duly declared and approved by the licensing authority concerned, prior to storage therein.
- (b) The room or place shall be segregated from the rest of the licensed premises by effectively closing all entrances into it except one communicating only with the open space outside the main factory building and this storage place shall be capable of being securely locked.
- (c) No duty paid goods shall be stored for this purpose elsewhere in the licensed premises except in such approved store room/place.
- (d) All issues for the retail store must be in accordance with the usual procedure for clearance on payment of duty.
- (e) Separate gate passes under Rule 52-A must be issued for each lot of duty paid goods at the time of delivery. One gate pass book should be exclusively used for this purpose. No countersignature of Central Excise Officer on the gate passes will be necessary on the gate passes covering such issue.

(f) The assessee should maintain an account of receipt, issues and balance in the retail store, in the form given below:—

Date	Description of goods	Opening balance	RECEIPTS		Total
			G. P. No. & date	Quantity	
1	2	3	4	5	6

I S S U E S		Closing balance	Signature of licensee.	Remarks
No. & date passes	Quantity	9	10	11
7	8	9	10	11

(g) The accounts so maintained will be open for inspection by any Central Excise Officer at all times.

[No. CER/173H/1/1968.]

A. K. ROY, Collector.

#### CENTRAL BOARD OF EXCISE AND CUSTOMS

##### CUSTOMS

New Delhi, the 15th June 1968

S.O. 2144.—In exercise of the powers conferred by section 9 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby declare Haveli Taluka of Poona District in the State of Maharashtra, to be a warehousing station.

[No. 90/68-Customs/F. No. 3/21/68-Cus.VII.]

M. S. SUBRAMANYAM, Under Secy.

